FWS AND NMFS BUDGETS, FISCAL YEAR 1990

HEARING

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

OF THE

COMMITTEE ON
MERCHANT MARINE AND FISHERIES
HOUSE OF REPRESENTATIVES

ONE HUNDRED FIRST CONGRESS

FIRST SESSION

ON

PROPOSED FISCAL YEAR 1990 BUDGET FOR THE U.S. FISH AND WILDLIFE SERVICE AND THE NATIONAL MARINE FISHERIES SERVICE

FEBRUARY 22, 1989

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FISH AND WILDLIFE SERVICE AND NATIONAL MARINE FISHERIES SERVICE BUDGETS, FISCAL YEAR 1990

WEDNESDAY, FEBRUARY 22, 1989

House of Representatives, Subcommittee on Fisheries
and Wildlife Conservation and the Environment,
Committee on Merchant Marine and Fisheries,
Washington, DC.

The subcommittee met, pursuant to notice, at 10:06 a.m. in room 1334, Longworth House Office Building, the Hon. Gerry E. Studds (chairman of the subcommittee) presiding.

Members present: Representatives Studds, Hughes, Tallon, Hochbrueckner, Pallone, Unsoeld, Dyson, Schneider, Coble, Weldon, and Herger.

Staff present: Gina DeFerrari, Bill Woodward, William Stelle, Jeffrey Pike, Lisa Murray, Joyce Sacco, Sue Waldron, Rod Moore, Tom Melius, and Peter Marx.

Mr. Studds. The subcommittee will come to order.

OPENING STATEMENT OF HON. GERRY STUDDS, A U.S. REPRESENTATIVE FROM MASSACHUSETTS, AND CHAIRMAN, SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT

Mr. Studds. We meet this morning to review the Administration's fiscal year 1990 budget request for the U.S. Fish and Wildlife Service, and the National Marine Fisheries Service.

We recognize that the new Administration has been in office for less than five weeks, and that virtually all of the recommendations we will discuss today were developed during an era far less kind and gentle than the one we now enjoy.

The recommendations contained in this budget are familiar to us all. They have been submitted to Congress and rejected by Congress time and time again. They propose that we do less to protect marine mammals and endangered species; less to manage our wildlife refuges; less to manage sports and commercial fisheries; less to protect fisheries habitat; less to enforce our fisheries and wildlife laws; and less to help States protect our national interest in abundant and thriving fish and wildlife resources.

This budget is without ambition, without initiative, and without vision. It is, in short, a Reagan budget.

We have received word, to date, of only one change made by the new Administration: a decision to acquire at least some new land for our wildlife refuse system.

That is a small step but it is in the right direction. And it is because I hope we can continue moving in that direction that I suggest the subcommittee focus today not so much on what is old and tired, on the stale debates of the past 8 years, but instead on what the potential is for the next four years and beyond.

We want to know whether the new Administration will reject or modify the Reagan Administration's plan to tax the right to fish in salt water.

More generally, we want to know whether this Administration will work with, and not against Congress, to restore our national commitment to the environment, and to the living resources upon which our citizens depend; some for our economic livelihood; some for recreation; some for reasons that are not quantifiable but which have much to do with the pride that we take as Americans in the beauty and wonder and diversity of our land.

As Chairman, I have an obligation, as all the members of this subcommittee do, to help the Fish and Wildlife Service and the National Marine Fisheries Service obtain the resources they need to do the many difficult tasks they are required by law to perform.

We have an obligation, as well, to see that our laws are faithfully carried out, and that laws, not politics, govern the decisions of those entrusted with the protection of our natural heritage.

We are all aware that serious allegations have been made in recent months about the management of the Fish and Wildlife Service. Allegations about political interference in agency decisions; about the suppression of professional scientific analyses; and about the transfers of long-term agency employees for reasons that are not clear.

What is clear is that these allegations are having a harmful effect on the morale of the Service, and they are hindering its ability to carry out its assigned mission.

This morning we have an opportunity to clear the air, to look ahead, and to reflect on our shared responsibilities. I look forward to an interesting and informative day.

Without objection, the statement of the gentleman from New Jersey, Mr. Saxton, will appear in the record.

[The statement of Mr. Saxton follows:]

STATEMENT OF HON. JIM SAXTON, A U.S. REPRESENTATIVE FROM NEW JERSEY

Mr. Chairman, thank you for holding this hearing today and allowing me an opportunity to express my comments and concerns about the proposed budget for the National Marine Fisheries Service for Fiscal Year 1990.

In the last session of Congress, my colleagues and I worked very hard to enact legislation to clean-up, protect and prevent further fouling of our marine waters and coastal areas. It was a good year. The ban on ocean sludge dumping, the tracking of medical waste, and the ban on the ocean dumping of plastics were enacted.

However, there is still much to accomplish. This brings me to the issue we are addressing today, the funding requirements of the National Marine Fisheries Service.

Of particular concern to me are the budget cuts involving habitat research and estuarine and nearshore ecosystems and nearshore fisheries. These cuts will seriously curtail the operations and research at the Sandy Hook Laboratory in New Jersey. In fact, the draft of the proposed budget states that "environmental management activities . . . will be terminated" and "research on the physiological and biochemical effects of pollution on fishery resources would be reduced" at this facility. This reduction is estimated to be greater than 50% of its budgeted amount for this research for 1989.

Research and educational programs at Sandy Hook Laboratory have been conducted for over the past 25 years and include some very important pollution-related studies involving the New York Bight and the offshore sewage sludge dumpsite. These are both areas of tremendous concern and particular interest to New Jersey.

Mr. Chairman, some of these studies have included such things as diseases in commercially valuable Northwest Atlantic fish stocks, sewage sludge dumpsite recovery, and NOAA's Northeast Monitoring Program. Suffice to say, these are subjects of concern to many states. This type of research is essential and fundamental to our understanding of coastal ecology—especially regarding how our marine waters, coasts, and associated plants and animals, are being impacted by pollution. The need for such ecological information was dramatically illustrated just recently when we learned how an anomaly of nature resulted in the massive death of dolphins.

The fouling and degradation of our marine waters is not limited to New Jersey or the Northeast; it is a national concern. The impact of pollution can have far reaching effects and must be investigated. How are marine species responding to this pollution? What is the condition of our fishery resources? How can we ensure the continued quality of our seafood? We need answers and solutions. That is why I am expressing my deep concern over the proposed budget cuts that will in one case eliminate funds for some important management activities, and in the second case will significantly reduce funds for important pollution research on fisheries resources at the Sandy Hook Laboratory.

I certainly understand the need to reduce the federal budget. However, I also recognize the value of our marine resources and the necessity for high quality research. I would like to see that such programs are well-supported and not eliminated or drastically reduced

Mr. Studds. Are there Members with opening statements?

[No response]

Mr. Studds. If not, we shall proceed with the hearing.

The gentlelady from Washington. Do you wish to share some opening observations this morning with us?

Mrs. Unsoeld. What I would really like to do is to be able to submit a written statement for the record. I have been out in the district this last week and picked up some additional information, and I am very concerned that in this budget, the priorities are not going to meet my priorities and my district's, and I would appreciate being able to submit something for the record.

Mr. Studds. Without objection.

[The statement of Mrs. Unsoeld follows:]

STATEMENT OF HON. JOLENE UNSOELD, A U.S. REPRESENTATIVE FROM WASHINGTON

Thank you Mr. Chairman. As you and other members of the Subcommittee have indicated this morning, the Administration has once again proposed major reductions for the National Marine Fisheries Service. Perhaps most distressing is the fact that the FY 90 Reagan budget represents a major retreat—some 41%—from the Federal Government's commitment to fisheries, at a time of increasing demands on the fishery resources.

Briefly, Mr. Chairman, I urge the Subcommittee to restore adequate funding for the following important northwest fishery programs.

I. *Columbia River Hatchery (Mitchell Act) Programs*—In its FY 90 budget request, the Administration has proposed to eliminate the entire Mitchell Act hatchery budget and transfer the financing obligations to the region's ratepayers through the Bonneville Power Administration. The Administration's justification is that the hatcheries provide localized benefits to the economy of the Pacific Northwest, and therefore the funding should be provided by those that benefit from both the resource and the region's hydroelectric dams.

Mr. Chairman, the Administration argument is severely flawed.

First, the Mitchell Act of 1938 commits the Federal Government to mitigate the impact of Columbia River hydroelectric projects on the fishery resources. This Act is still in effect, and it stays in effect as long as the dams affect the fishery resources.

Second, the Federal Government is not shouldering the entire burden of enhancing the Northwest fisheries. The Northwest Power Planning Council's Fish and

Wildlife Program, adopted in 1983, commits the regions ratepayers to spend some $700 million over the next 20 years for fisheries enhancement activities.

Third, the benefits of these hatcheries are not limited to a discrete geographical area, as the Administration claims. The salmon produced in Columbia River Hatcheries contribute heavily to the economies of California, Alaska and even Canada, not just Oregon and Washington.

II. *PacFIN*—Marine fish management is essential to the continued growth of our fishing industry in the Northwest. In order to conserve our fishery resources and provide our industry with allocations that reflect a solid understanding of the fishery resources we manage, a data collection analysis and monitoring system like PacFIN must be funded.

III. *U.S./Canada Pacific Salmon Treaty*—When the U.S. signed the Pacific Salmon treaty in 1984, we committed ourselves to enhance our Pacific salmon and steelhead resources. By proposing to eliminate federal funding for this treaty, I am concerned that the Administration does not take seriously its treaty responsibilities. It is critically important that we provide the funds necessary to meet our treaty obligations. Insufficient funding for our obligations under this treaty reduces our ability to effectively manage the international salmon fisheries and undermines our negotiations with the Canadians and other parties.

U.S. Fish and Wildlife Service

Mr. Chairman, I strongly recommend that this committee protect the integrity of the Wallop-Breaux and Pittman-Robertson funds. The Administration is proposing to put a $100 million cap on the federal aid in Wildlife Restoration and federal aid in Sport Fish Restoration programs. This action breaks a pledge to utilize these "user fees" for the purpose for which they were intended when the Aquatic Resources (Wallop-Breaux) Trust Fund was signed into law by the President in 1984.

The Administration's proposed caps would reduce federal aid in Sports Fish Restoration by $92.9 million and federal aid in Wildlife Restoration by $29 million, thus, withholding these funds from state fish and wildlife agencies to which the money is apportioned.

Mr. Chairman, accepting this proposal would be a breach of faith between the U.S. Government and the fishermen that contribute to this fund. Further, this blatant abuse of the user-fee principle destroys the credibility of the Administration's other user-fee programs, such as the saltwater fishing license being proposed by the National Marine Fisheries Service.

Also, within the U.S. Fish and Wildlife budget, I recommend full funding for the Anadromous Fish Conservation Act. As you know, this program provides funds to coastal states for research projects aimed at conserving and developing anadromous fisheries. In my state, these funds are vital to ocean sampling, tagging, stock assessments, and research to minimize overharvesting and season closures of salmon.

Mr. Chairman, the President's overall National Marine Fisheries Service and U.S. Fish and Wildlife Service budget cuts represent wholesale attacks on recreational and commercial fishermen in the Northwest and I can tell you that my constituents are deeply concerned with these proposals. There are other important fisheries programs that the Administration is not proposing to fund adequately. In the interest of brevity, I will not detail these programs now. Rather, I will simply state that in addition to the programs I previously outlined, I urge the Committee to place high priority on funding for Bearing Sea groundfish research, Regional Fishery Management Councils, domestic observer programs, fisheries enforcement and surveillance programs, and Japanese Salmon interception and enforcement. Through meetings with leaders of the fishing industry, the academic and scientific communities and informal consultation with key federal, state, and agencies from Washington, Alaska, and Oregon, it is clear to me that these important initiatives should be funded.

Finally, Mr. Chairman, over the years it has been very clear that former President Reagan had other priorities and failed to recognize the importance of fisheries to the Nation. It is largely the result of this Committee, and its leadership, that we even have a federal fisheries program. This is a new Administration, however, and at today's hearing I look forward to learning if the current Administration, led by a self-proclaimed "environmentally sensitive sportsman," intends to work with this Committee and this Congress to restore a responsible fisheries budget.

Thank you Mr. Chairman.

Mr. Studds. And would the record reflect that we all understand what the gentlelady means when she says the district.

Mrs. Unsoeld. The Third District in Washington State.

Mr. Studds. Does the gentlelady from Rhode Island have a statement?

Miss Schneider. No.

Mr. Studds. We shall proceed, first, with the Fish and Wildlife Service, Mr. Frank Dunkle, Director. Mr. Dunkle.

STATEMENT OF FRANK H. DUNKLE, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, WASHINGTON, D.C.; ACCOMPANIED BY JAY L. GERST, ASSISTANT DIRECTOR FOR POLICY, BUDGET AND ADMINISTRATION, U.S. FISH AND WILDLIFE SERVICE; AND KATHLEEN TYNAN, ACTING BUDGET OFFICER, U.S. FISH AND WILDLIFE SERVICE

Mr. Dunkle. Good morning, Mr. Chairman.

Accompanying me are several members of my staff. At the table I would like to introduce Jay Gerst who is the Assistant Director for Policy, Budget and Administration, and Kathy Tynan who is our Acting Budget Officer.

In addition, I have the Assistant Directors for Fisheries, Refuges, Fish and Wildlife Enhancement, and the Regional Director for Research, who will assist in answering any questions that you might have for the Service.

I would appreciate your consideration in calling on them to give information on specific questions that might be asked within their respective areas.

I would request further that my written statement be included in the formal proceedings of this hearing.

Mr. Studds. Without objection, it will appear in its entirety, and you may proceed as you wish to summarize it.

Mr. Dunkle. I have a few comments in summary. I would like to highlight our 1990 budget request. We have a request for $606 million, and it continues our forward movement in the stewardship of the fish and wildlife resources, and lands that they inhabit through a responsible management program.

The budget that we are proposing outlines a realistic plan to maintain essential operating activities. This budget is consistent with the previous Administration's request. However, in keeping with the President's commitment to the protection of our valuable land resources, the Service will be requesting a significant increase in the land acquisition funds.

The 1990 budget includes, among others, initiatives for wetlands conservation, implementation of a North American waterfowl management plan, and fisheries restoration.

In the fisheries restoration area we are moving forward in the restoration program for striped bass, especially in Maryland and Virginia, and the restoration of the Chesapeake Bay.

We have earmarked $120,000 for marking and tagging studies so that we can learn more about the striped bass and where they are going. We also are requesting an increase of $450,000 to initiate a 3-year program on the recovery of chinook salmon and steelhead in the Northwest Pacific area.

The endangered species request has been a source of comment from outside agencies, other groups, and the Congress, who think that we should be looking more carefully at the expenditures and the requests for expenditures for the Endangered Species Act. I would tell you today that there is a reduction in that amount of money, but we are looking forward to utilizing that money in a better fashion.

The members of your committee, Mr. Chairman, have a copy of Recovery 2000. It was an effort on our part to do the bidding of the Congress, and to look carefully at the Endangered Species Act, recovery, and where we are headed.

We asked one region to move forward on a format program and they have done this. It is a format that we will be following. We will prioritize species in terms of their problems and their needs. We have set a recovery time and an accounting of the money that would be necessary for this recovery. Thus, we will be moving forward on a national basis to utilizing monies that are made available in a priority recovery plan for those endangered species that are listed.

We are working on the contaminant problems. The 1990 budget provides $23 million for this purpose. We have over 80 different contaminant problems on refuges, including clean up of dredged spoil in some areas, and a survey of some of the contaminants in the Great Meadows refuge.

The Service will address the contaminant clean-up using $2.9 million in 1989 and $3.1 million in 1990 at sites including Crab Orchard, Great Swamp, and several other refuges.

We are actively cleaning up four sites that we have identified within the 25 Service sites listed on the Superfund docket.

Our Federal aid program is moving ahead. The 1990 budget includes a proposal for a cap on the sport fisheries and Federal aid in wildlife account at the $100 million level. The unappropriated balances, totaling roughly $120 million, will continue to be available for future appropriations.

Mr. Chairman, this concludes my general remarks. I presume that the committee will review my statement, and if you have further questions we will be happy to respond to those in writing at your request.

[The statement of Mr. Dunkle can be found at the end of the hearing:]

Mr. Studds. Thank you very much, Mr. Dunkle. We will do just that.

Let me begin, if I may with some general budget questions.

Under the Bush budget, your budget is subject to negotiations between OMB and the Congress for the purpose of implementing the oxymoronic flexible freeze plan.

In other words, if we decide to do something outrageously flexible, like house the homeless, or rehabilitate drug addicts, for example, we may be obligated to do so, in part, at your expense, at the expense of your budget.

Have you received any indication at all, from OMB or the White House, about the effect that these negotiations might have on the Fish and Wildlife Service budget?

Mr. Dunkle. No, sir, not to my knowledge.

Mr. Studds. Nobody knows anything about that?

[No response.]

Mr. STUDDS. Let me just say that we are going to have sort of a flexible five-minute rule for the first round of questions. The Chair intends to ask the staff to hold him to that in a flexible fashion, as well as the other members, and we will have a second round of questions as well.

Mr. Dunkle, the Administration has proposed to cap expenditures from the Wallop-Breaux and the Pittman-Robertson funds at $100 million each, as you know, and to withhold the remaining $122 million for appropriation in future years.

As Chairman of the subcommittee, I can tell you, unequivocally, that this plan is directly contrary to the intent of the Congress.

Is that as clear to you as it is to us? The intent of the Congress, that is?

Mr. DUNKLE. I am under the impression that Congress would not concur with that, but I also am saying that that money is not diverted. It is held with an opportunity to appropriate at a later date, so it is not being taken out of the fund to be used for any other function.

Mr. STUDDS. We call that pseudo flexibility, I assume. Whose ideas was this? Yours? The Department's? OMB's?

Mr. DUNKLE. It was not my idea, sir.

Mr. STUDDS. Do you know whose it was?

Mr. DUNKLE. No, sir.

Mr. STUDDS. Does the Administration contend that State Governments are incapable of making effective use of the full amount of money available from Wallop-Breaux and Pittman-Robertson in 1990?

Mr. DUNKLE. No, sir.

Mr. STUDDS. It does not. OK.

The Administration's budget assumes Congressional approval of a proposal to permit oil and gas leasing to begin in the Arctic National Wildlife Refuge in 1990, projecting receipts to be $2.7 billion. Is that correct? $2.7 billion in fiscal 1990. Can you tell us the basis for that figure.

Mr. DUNKLE. Well, that is based on the expected price of $30 a barrel.

Mr. STUDDS. In 1990?

Mr. DUNKLE. Yes, sir, and that may be a little high, but that——

Mr. STUDDS. And this year, am I correct, is 1989?

Mr. DUNKLE. Yes.

Mr. STUDDS. Yes. Now, let's go again. How are we going to get $2.7 billion next year?

Mr. DUNKLE. By basing the receipts on the expected price of $30 a barrel.

Mr. STUDDS. And assuming how much oil will be produced in ANWR in 1990?

Mr. DUNKLE. Well, give or take—well, the sale of gas is in that also, but if we were to divide the $2.1 billion by $30—I do not happen to have a calculator with me, nor am I that swift in mathematics but——

Mr. STUDDS. But whatever it is, that is what you project will be produced in ANWR next year?

Mr. DUNKLE. If indeed it were open, and there was the opportunity to drill.

Mr. STUDDS. Are we assuming that ANWR will be explored, developed and producing oil next year?

Mr. DUNKLE. No.

Mr. STUDDS. The oil companies have testified that if we gave them the go-ahead last year, it would take them at least a decade before they were producing oil.

Mr. DUNKLE. Excuse me, sir. I am going into a little consultation.

Mr. STUDDS. That is quite all right. I think it is worth it.

Mr. DUNKLE. One of the things you must remember: there is income from the sale of leases that would come first.

Mr. STUDDS. Well, is that what this money is? Is it projected lease sale income, or is it projected royalties from production of oil?

Mr. DUNKLE. For 1990 it would have to be projected in terms of lease money, and the possibility of sales, but you are quite right—we could not develop that in one year.

Mr. STUDDS. No. So the $2.7 billion is your projection of income based on lease sales within ANWR?

Mr. DUNKLE. I would prefer to investigate that a little further in case we have a misspoken item here, and I would be glad to respond to you in writing on that.

Mr. STUDDS. It is a substantial figure, almost $3 billion.

Mr. DUNKLE. Yes, sir.

[The information of Mr. Dunkle was never received for the record.]

Mr. STUDDS. As you know, I have asked the GAO to examine some of the personnel transfers that have taken place in the Fish and Wildlife Service in the last few years.

Especially out West, there seems to have been a lot of people moving around. Let me just cite one example of what we mean. A Mr. Riley was sent from Portland to Albuquerque to replace Mr. Brown who returned to Washington after a 120-day detail.

Riley's job in Portland was filled by a Mr. Mazzoni who came down from Anchorage, but Mazzoni had already been selected to take Brown's place in Albuquerque. So eventually, Riley went back to Portland and Mazzoni went to Albuquerque and apparently all was once again right with the world.

According to our information, you spent more than $40,000 during the last six months, in Region I alone, on per diem and travel expenses for five senior-level people assigned to temporary duty.

If that pattern were to hold true nationwide, you would be spending approximately $600,000 a year on this kind of transfer, enough to restore about 6000 acres of wetlands.

Obviously, some flexibility—our favorite word—is essential in personnel assignments, but this looks to us like something that may have gotten out of hand. Why does it look that way?

Mr. DUNKLE. I do not have any idea why you would think that it looks different or bad, and, is what I assume you are saying, that something was done wrong. It was not. We followed perfectly proper personnel actions. When we have people move or retire, we do move people in immediately. We try to give other people an opportunity for learning, for improving their opportunities, and sometimes, one of the best ways to do it is through an assignment, a temporary assignment.

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I do not know where you got your figures. I do not know how you computed them. I would have to look at those and see if they are accurate.

Mr. Studds. We will go into more detail in the second round. My staff has just informed me that even under the most flexible timing, my time is up.

The gentlelady from Rhode Island.

Miss Schneider. Thank you, Mr. Chairman.

Mr. Dunkle, in reviewing the numbers here in the budget, the endangered species segment of the budget calls for a 33 percent reduction in overall programs, including the zeroing out of the grants to States programs, and reducing endangered species' recovery efforts by 18 percent.

The General Accounting Office did a study this past January and they reported that 72 out of the 482 species that were protected by the Endangered Species Act have shown virtually no signs of progress toward recovery, and that at least one-third are continuing to decline toward extinction.

With that kind of report, and with that kind of budget reduction on top of the fact that the Oversight and Investigations Subcommittee of this committee went to Newark on February 10th of this year to investigate how well the Fish and Wildlife Service was doing in so far as wildlife inspection and the cataloguing, et cetera.

It seems to me that I have a difficult time accounting for that kind of 33 percent reduction, and an 18 percent reduction in recovery efforts.

Can you justify those cuts?

Mr. Dunkle. Well, first of all, one of the parts of your question is the grants to States, and it has been an Administration policy that we would not request special grant funding. Thus, we have not requested Section 6 funding, as we refer to it.

We have been moving ahead with recovery. We have taken those species that are in the worst trouble and working with them. It takes many years, sometimes, to show any response to recovery, and I would call to your attention to the trumpeter swan—sometimes it looks good, sometimes it does not.

The whooping crane has shown recovery, slowly but surely. The grizzly bear is up and down, but beginning to show recovery. In fact, there are areas where we will probably de-list the grizzly bear.

We have de-listed several species thus far. The response to recovery is very slow.

Miss Schneider. Granted, but with a budget cut of this magnitude, it seems to me that much of the effort in terms of recovery, and in terms of monitoring will be reduced.

I mean, the response you gave me is dependent upon that particular species and its survival. What I am talking about is the role that the Government can actually play, and I still do not understand how we could possibly cut that much and still expect our Endangered Species Act to be enforced.

Mr. Dunkle. If you would permit me, I would ask Dr. Ralph Morgenweck who is the Assistant Director for Enhancement, if he could cast any light on that for you. It is hard to tell you that we do not have a reduction. We do have a reduction but we do not think it is going to take away from our ability.

Could Dr. Morgenweck——

Dr. MORGENWECK. My name is Ralph Morgenweck. I am the Assistant Director for Fish and Wildlife Enhancement.

In truth, we do have a reduction of $1.5 million in recovery this year. I think that over the long-term that is tempered somewhat with a recovery program that has been somewhat on the increase since fiscal year 1982 to 1988, and has increased overall about 23 percent in constant dollars.

Nonetheless, we do have a substantial number of species that we are working toward recovery on. What we have done, when we have assessed these cuts, is to reduce funding for those species that we felt were not going to put the species in great danger.

Yes, it is going to delay the recovery, perhaps, but given the present budget situation, and the need to reduce expenditures, we felt that this was an area where we could still maintain our highest priority recovery actions and take the reduction.

Miss SCHNEIDER. Well, still related to where you get your revenue and how you deal with it, under CITES you have a user fee. Any company or individual right now that imports or exports more than $25,000 worth of wildlife products a year pays a fee.

And that fee is used, in turn, by Fish and Wildlife for inspection. Now my question is, how much more money do you think could be raised for wildlife inspection if the annual threshold was lowered to $10,000 a year?

Dr. MORGENWECK. I do not have specific figures on how much difference that would make. The Fish and Wildlife Service has been considering, and as a matter of fact one of our fiscal year 1989 goals is to explore either increasing those fees or, as you say, lowering the threshold where the fees are collected.

Miss SCHNEIDER. I am afraid my time is up but we shall continue on this later.

Mr. STUDDS. We shall. The gentleman from Delaware is recognized for five minutes.

Mr. CARPER. Mr. Chairman, I think there are a couple other members who were here before me. I am happy to ask a question or two, but I really should yield to them I think.

Mr. STUDDS. The gentleman is very kind and very practical.

The next in seniority on the subcommittee is the gentleman from South Carolina.

Mr. TALLON. Mr. Chairman, I also think there was another member here before I was. Let me at this time just say I do not have any questions. I look forward to serving with you and the other members of the committee, and I will yield back the balance of my time.

Mr. STUDDS. The gentleman is right. Timeliness is one of those things that should supersede seniority. Therefore, I will recognize the gentlelady from Washington.

Mrs. UNSOELD. Thank you, Mr. Chairman, and colleagues on the committee because this member also was not on time, and not fully prepared, but I do have some questions. Thank you, Mr. Chairman.

President Bush has said that he is an environmentally sensitive sportsman. Therefore, I have got some real apprehension about this 41 percent decrease, or retreat in the budget.

Specifically, I would like to ask about the budget proposal as it pertains to the Wallop-Breaux and the Pittman-Robertson trust funds, particularly Wallop-Breaux.

It is so rare that any group is willing to tax itself, even when the purpose is valid, and for sportsmen to have decided under the Wallop-Breaux that they were willing to tax themselves in order to enhance the fisheries for themselves, and for everyone, how can an Administration with a sportsman-sensitive President be submitting this budget?

You must have more information than we do as to where this idea came from, and who is really going to benefit from those funds that are going to be taken away from the sports fishermen and put some place else.

Mr. DUNKLE. Mr. Chairman, first of all, those funds are not, to my knowledge, going any place else. They are going to be held for later appropriation, and I am assuming in the same fund that they are collected for.

I presume that as our budget is discussed, you people will be the ones that hear, as well as us, if there is a group of people that do not agree with setting that money aside. And that group probably will be the people that pay the tax—the sporting public. If the States do not agree with setting this aside, or feel that they can match those monies, I am sure they will let both you and us know that.

Mrs. UNSOELD. Have the needs for which the tax was originally imposed—are there no longer any needs? Have they all been met?

Mr. DUNKLE. I do not think you will ever meet the needs of States, but they still have to match, they still have to come up with monies to match those funds. It is not just given out. They make a match and, to date, they have been able to match the monies that are available. And I do not know that they will and can match all of those at this point. But, again, I am sure that if the States and the sporting public feel strongly that they do not like the way this is handled, they will certainly let you and I know that.

Mrs. UNSOELD. If the sports fishermen and women, if they have not had all of the needs met for which these taxes were imposed, then what is the rationale for holding some of it aside for the future?

There must be some ulterior purpose. Is it not to simply make the proposed overall budget look better?

Mr. DUNKLE. No. I think perhaps you are reading more into it than any of us are thinking about. That money, thus far, has not been totally matched. We are going on an estimated basis and we will have to see. It is not being set aside for something that I do not know about because that would be against the law, and I can assure you we do not do that.

Mrs. UNSOELD. It is the view of many sports-fishing people in my district.

Mr. DUNKLE. I am sorry?

Mrs. UNSOELD. It is the view of many of the sports fishermen in my district with whom I spoke in the last couple of weeks. Mr. Chairman, do I have any remaining time?

Under the Mitchell Act, the Federal Government is committed to mitigate impact upon fisheries from hydroelectric development.

Through BPA, the ratepayers in the Northwest are already contributing a considerable amount of their money which is being used to that purpose.

However, from the Federal Government, we seem to be in this budget proposing to reduce the Federal involvement with that.

Can you give me some explanation as to why?

Mr. DUNKLE. You let me off pretty easy on this one. It is not our budget problem. It belongs to another agency. The Mitchell Act.

Mrs. UNSOELD. Right. I will save that question and throw it at somebody else. Thank you.

Mr. STUDDS. Thank you. The gentleman from North Carolina.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. Dunkle, I want to revisit the matter of the proposed or projected receipts in ANWR about which the Chairman questioned you.

Now in this town, as you all know, many people are accused of utilizing smoke and mirrors as we go about discharging our fiscal duties.

Now this seems to me, Mr. Dunkle, to be a very imprudent, reckless exercise of smoke and mirrors, based upon what little I heard between yours and the Chairman's exchange.

I do not know whether the $2.7 billion was just yanked from the air in somebody's wild imaginative dreams one night, or what, and I am not accusing you, but I am accusing somebody, again, based upon my limited exposure to what was said earlier.

Now you indicated, Mr. Dunkle, that you will respond to the Chairman in more detail. I, too, would like to be a beneficiary of that response because this bothers me. I will not delve any further into that at this point.

Mr. Dunkle, question number two, the number of dams—unless you want to be heard further on that, Mr. Dunkle?

Mr. DUNKLE. Well, I would just, again, reflect to you that I would prefer that I run it down in conclusion, so that I can give you a straightforward answer as to where, how, and what those figures were determined, from where, and on what basis. I, too, want to check it because other than bonuses and leases, and this sort of thing, I don't think—from my experience in the Arctic—you can start from the time that—Congress may or may not even allow the area to be prospected and open. It would be a little tough to get that stuff in, going underway, and have that money coming in in one year.

And the Chairman was very correct in questioning those figures and that approach, but I still would like the opportunity to review that, in depth, and give you a concrete answer. I will see that that question is answered and goes to all committee members.

Mr. COBLE. I am appreciative for that, sir. If it then appears to me that I have been unduly harsh in accusing imprudence and recklessness, I will apologize for that, but, at this point, I am going to stand by those guns.

Mr. Dunkle, the number of dams that must be relicensed under the Federal Energy Regulatory will increase substantially in the next few, subsequent years. What additional personnel and financial resources, if any, will be required to handle the increased workload accompanying that assignment?

Mr. DUNKLE. Congressman, I would like the Assistant Director for Enhancement to answer that question, if I may.

Dr. MORGENWECK. The Fish and Wildlife Service has been working with the Federal Energy Regulatory Commission to identify ways of handling the workload of the Fish and Wildlife Service.

Mr. STUDDS. Can you pull that mike closer, sir. I am sorry. We cannot hear you.

Dr. MORGENWECK. The workload of the Fish and Wildlife Service in FERC relicensing has been increasing. The increase began a year ago or so, and will continue until it peaks in about 1993. The Service has been concerned about how we are going to handle that workload. As it turns out, the FERC can get reimbursement for the relicensing activities from the licensees, and for the last several years, the Fish and Wildlife Service has been supplying our cost figures to FERC.

However, we have not yet been able to receive reimbursement back for our efforts. We are in the process right now of working with FERC to reach a reimbursable agreement that will help us recover those costs to the Fish and Wildlife Service.

Right now, the money is being recovered to the U.S. Treasury but not to the Fish and Wildlife Service. So, hopefully, some time this fiscal year we will be able to reach that agreement.

Mr. COBLE. Thank you, Mr. Dunkle. I have no further questions, Mr. Chairman.

Mr. STUDDS. Thank you. The gentleman from New York.

Mr. HOCHBRUECKNER. Thank you, Mr. Chairman.

Well, Mr. Dunkle, last summer, as you probably read, we had major problems on the New Jersey as well as the Long Island beaches. Among some of the more noticeable pictures that appeared in newspapers were fish that had hypodermic needles sticking out of them. As you probably know, we took a tremendous loss both in tourism and in the sale of seafood in the New York metropolitan region because of the negative publicity associated with the condition of the seafood that was on the market.

In light of that, I am very inquisitive. Under the seafood safety area, you are calling for eliminating 86 positions and $4.4 million for product quality and safety research. I am very concerned about why would we be going in that direction at a time when we have a problem that needs to be addressed?

Mr. DUNKLE. Mr. Chairman, Congressman, I think that you might need to ask that question of the next agency that is coming up, which is in charge of the commercial area of fisheries. It is not a responsibility of the Fish and Wildlife Service.

Mr. HOCHBRUECKNER. OK. I thought I would try.

Let me ask a question of you based on page four. On the bottom of page four you are promoting a $100,000 Federal fishery assistance program basically for tagging striped bass.

As you know, there is a major concern based on the Chesapeake stock of striped bass. Also, of course, we have a large number of striped bass that are off of Long Island, that actually come from the Hudson River.

And so we are very concerned that, on the one hand, you are calling for a $100,000 striped bass tagging program, but, on the other hand, there is also $2.5 million for striped bass research that your agency is proposing to eliminate.

Of that $2 million is the State-Federal sharing program, and also there is $500,000 associated with research on striped bass.

On the one hand, we like the $100,000 proposal for a tagging program; but certainly, the loss of $2.5 million in a very important area does not seem to cut well.

So could you tell us why you are doing that, and how come you are not proposing the $2.5 million plus the $100,000 of tagging.

Mr. **DUNKLE**. That is a research question, and with your permission, I would like Dick Smith who heads up our research to try and answer that question for you.

Mr. **SMITH**. It is partially a research question. The tagging study, mark-and-release study, is needed to determine the origin, life history, and migratory patterns of striped bass in the Chesapeake Bay. It is a necessary study if we are to set regulations, and deal with the issue of harvest of striped bass.

The other issue you are speaking of is the emergency striped bass money, $500,000 that has been in the budget for the last 7 or 8 years; funds secured by Mr. Chafee. These are long-term studies that we conducted, to assess the stock assessment and determine the effect of closing the fishery. The contaminant part of this study deals with the effects of contaminants on the fishery in the Chesapeake Bay.

Part of the study is carried out by Johns Hopkins University and deals with the ecology of the Potomac River and striped bass.

That amount of money has been an add by Congress since I have been involved with this. It is not in the 1990 budget now and if it is not added these studies will not be completed.

Mr. **HOCHBRUECKNER**. So you are in support of putting the $500,000 back in, because I agree with you that historic trends should always be observed and supported?

Mr. **SMITH**. That conclusion was yours.

Mr. **HOCHBRUECKNER**. But you do not disagree that we should in fact have the money for that purpose?

Mr. **SMITH**. I do not disagree with your conclusion. Those studies will not be completed if the resources are not in the budget.

Mr. **HOCHBRUECKNER**. Thank you, Mr. Chairman.

Mr. **STUDDS**. I thank the gentleman. The gentleman from Pennsylvania.

Mr. **WELDON**. Thank you, Mr. Chairman. I would like to direct my questions to Mr. Dunkle also, and thank all the members for appearing today.

My first question has to do with a new budget category in the fiscal 1990 budget request entitled "Federal Wildland Fire Fighting" in the amount of $14 million. That is more than 10 percent of all the other costs associated with operating the refuge system, which we all agree is under extremely tight financial constraints today.

Would you give me some indication as to what this money is to be used for. I assume it is in response to the rash of fires that we had in the West last year, but I would like to know some of the specifics of what the money is going to be used for.

Mr. DUNKLE. Mr. Chairman, I would like Mr. Gerst to handle that question.

Mr. GERST. The funding that you see in the budget does not relate to the prior level of expenditures of the Fish and Wildlife Service which is in the $2 to $3.5 million range in actual expenditures. This is a new departmental initiative to create a consolidated firefighting budget. Approximately $14 million represents the Fish and Wildlife Service's portion of what would be a new, departmental account to allow for replacement of equipment, intensified training, and intensified support, based on what each bureau would need on an optimum basis to run a fire fighting program.

So the money that you see there is based on a completely different projection than prior-year expenditures by the Fish and Wildlife Service.

Mr. WELDON. To be honest with you, I have a little problem with this. The entire budget of the National Fire Service, including the U.S. Fire Administration and the National Fire Academy is about $16 million a year, and you are proposing $14 million in a one-shot allocation for just wildlands fire protection.

I mean, if you look at the Fire Academy and the Fire Administration which service the entire fire service in all of America, it is only approximately $16 million a year.

Has this been coordinated with the Fire Administration at all?

Mr. GERST. Let me tell you that the Fish and Wildlife Service portion of this, what you see there, is only a very small——

Mr. STUDDS. Could you speak up, sir.

Mr. GERST [continuing]. is only a very small portion of the departmental proposal. The Fish and Wildlife Service's $14 million is out of a projected $166 million for this program Department of the Interior-wide.

So we have the smallest portion of any bureau of the Interior Department.

Mr. WELDON. That may in fact be the case but I would like to know specifically what your portion is being used for. I will deal with the remainder of the budget request at another time.

I would like to have a specific outline of what your portion of that will be, and I will, for the record, ask the Chairman to assist me in getting a full explanation of the entire $144 million allocation as projected for this year.

I would like to know what planning has gone into that, and how that relates to what we are doing overall in Congress, relates to the fire problem in America. I think that is a little bit out of line right now. I would like that for the record.

[The information of Mr. Gerst was never received for the record.]

Mr. WELDON. Now my second question relates also, in this time of increasing funding in that area, to a very real concern that I have with the largest fresh water tidal marsh left in Pennsylvania, and that is the Tinicum Marsh which happens to be in my district, which was founded in 1972 by Congress, originally, and back in 1972 $19.5 million was authorized. To date, only $8 million has been used, practically all of that for land acquisition.

Tinicum is the only urban facility of this type on the East Coast being a direct part of the City of Philadelphia, and it is the only facility without an education and maintenance complex.

I noticed in part of the budget that we are getting fees from our wildlife refuges. It is not possible to collect fees in Tinicum because it is the only such refuge without a facility either for maintenance or for ongoing operations.

Last year the Administration put in a $225,000 request to do the site work for what would be a $1 million facility at Tinicum, desperately needed. Bipartisan support from the entire Congressional delegation in a three-State area—New Jersey, Pennsylvania and Delaware in support of this initiative, and yet there has been no request for any funds to continue this project at the meager level of $1 million.

I would like perhaps Mr. Dunkle to respond to that.

Mr. DUNKLE. I think that I would like to ask Mr. Olsen who has responsibilities for refuge to try to answer that question for you.

Mr. WELDON. Thank you.

Mr. OLSEN. My name is Dave Olsen, I am the Acting Assistant Director for Refuges and Wildlife.

We have a small visitor complex at Tinicum, as you know, and we are aware of the funds that became available for the maintenance building. Plans for that facility are ongoing at the present time, and we expect to see them shortly.

Mr. WELDON. But there was no request for funding. Can you tell me why there was not a request in this year's budget to implement that. I mean, the $225,000 is to design the facility and lay it out, and that is under way now as I understand it?

Mr. OLSEN. That is correct.

Mr. WELDON. And I might add, the local Fish and Wildlife personnel there are doing an absolutely fantastic job under basically intolerable conditions, and I just want to know why there was no request for funding that.

Mr. OLSEN. The only kinds of requests for funding we considered were those involving health and safety, and this did not come under that category.

Mr. WELDON. Well, I would say for the benefit of those employees who work there it would be health and safety, and if you had visited the facility, as I have on numerous occasions, I think for the health and safety of the people using the 900 acres that there is some type of facility needed there.

It is the only major refuge of its type in the Nation without that type of facility, and I am going to continue to press that issue all throughout this session.

So I would just ask you to work with me in that process, and I am very much upset that it was not included in the Administration's original request. Thank you, Mr. Chairman.

Mr. STUDDS. The Chair will return to the gentleman from Delaware.

Mr. CARPER. The gentleman thanks the Chairman for returning.

To our witnesses, let me just start off, first of all, by asking does your budget proposal include not only proposed outlays, expenditures, but also proposed revenues or receipts by various categories?

Mr. DUNKLE. Yes. It does.

Mr. CARPER. All right. Could someone—I do not know who—Miss Tynan or someone else—someone just review for me, briefly, what those major sources of revenues are for your 1990 budget.

Ms. TYNAN. Let me see if I can answer you now in terms of the details. For the most part, the dollars in our budget are appropriated dollars. Sources of income other than that include refuge receipts. We receive receipts for sale of products on refuge lands, which in turn are used to make payments to States. We have our Federal aid accounts which you are well acquainted with in terms of taxes on munitions, firearms.

We have a funding table that we can provide for you that breaks all this down, if you would like.

Mr. CARPER. In which of these revenue categories does the $2.7 billion for ANWR—I guess lease sales—where does that fall?

Ms. TYNAN. Those funds are not projected in our budget.

Mr. CARPER. They are not projected?

Ms. TYNAN. No. They are not.

Mr. CARPER. All right.

Ms. TYNAN. Those are not Fish and Wildlife Service revenues.

Mr. CARPER. In whose budget are they projected?

Ms. TYNAN. I would assume they would be in Minerals Management Service.

Mr. CARPER. In where?

Ms. TYNAN. Minerals Management Service.

Mr. CARPER. All right. The second question. In the summary that I have that has been prepared by our subcommittee—an overview, if you will—it talks about the 1990 budget for the National Marine Fisheries Service.

My understanding is that the only information that was available was from the—I guess the original budget submitted by former President Reagan—and is there an update to that? Has it been revised by the new Administration, or is the new Administration simply using the old Administration's budget proposals for NMFS.

Mr. DUNKLE. I cannot speak for Marine Fisheries. Only for the Fish and Wildlife Service.

Mr. CARPER. All right. Thank you. I would like to echo the comments of I think Mr. Coble earlier, but returning to ANWR, and ask that any response that you send to the Chairman of the subcommittee on that score, you also share with me, if you would.

Mr. DUNKLE. I will see that the response to the receipts or the projected amounts of money from ANWR, be it leasing, bonus, or production, and a full explanation of that question as I understood it, will be given to the Chairman.

Mr. STUDDS. We will make it available to the full subcommittee.

Mr. CARPER. One last question. With regards to user fees that are being assessed to people who use refuges, what kind of experience have we had in terms of generating funds? Is it growing? Is it level?

Mr. DUNKLE. It is at approximately $1.6 million at this point. We keep looking at areas that we should be adding because of people's needs, or their recreation needs, and the ability to collect those funds. We are not set up like the National Park Service where we have entrances and this kind of thing.

And many times our collection is done on an honor system because we put way more money into the collecting than the collectable. So it is at about $1.6 million. It is projected in—I am looking at the revised estimate here, annual, and we have an actual of 1.3, a revised estimate of 1.6. We think it is going to go up, and we have 29 refuges that are under a user fee.

Mr. CARPER. Twenty-nine out of how many?

Mr. DUNKLE. Out of about 448.

Mr. CARPER. And would you expect to convert others to a user-fee basis in time?

Mr. DUNKLE. Yes, sir, as they lend themselves to that. Some refuges are in areas where there is strictly habitat area for wildlife—almost no visitor opportunities. But as we review the refuges, and the opportunity through development—we have to look at health and safety, and all of those things—then we would put a user fee.

Mr. CARPER. Lastly, for what purpose can those funds be used, and what percentage, roughly, do they comprise of the budget for the appropriated funds for refuge management?

Mr. DUNKLE. I would refer that question to Mr. Gerst.

Mr. GERST. Thirty percent would go to operations and maintenance and 70 percent to the Migratory Bird Conservation Account——

Mr. CARPER. Could you speak a little louder.

Mr. CARPER. We cannot hear a word you are saying, sir.

Mr. GERST. Thirty percent to operations and maintenance and 70 percent to MBCA.

Mr. CARPER. Say that again. Thirty percent for——

Mr. GERST. Thirty percent to operations and maintenance, and 70 percent to MBCA.

Mr. CARPER. MBCA.

Mr. GERST. Migratory Bird Conservation Account.

Mr. CARPER. All right. Thank you.

And the last question I asked was what percentage is that, roughly, of those expenditures?

Mr. GERST. If I understand your question correctly, it is a 100 percent. The 30 and 70 is a 100 percent of the receipts.

Mr. CARPER. Of the user fees. My question is: are we talking about user fees that generate just a minuscule portion of the funds that are used, or is it more significant than that?

Mr. GERST. Well, as the Director has indicated, it is $1.3 million. It is a small portion of the Fish and Wildlife Service operating budget. It is a very much smaller proportion than it would be for National Park Service.

Mr. CARPER. And is there a likelihood that it will be more than just a small portion?

Mr. GERST. It would never be larger than a small proportion. We expect some increase off a small base of $1.3 million. We expect a significant percentage increase, but it will never be more than a small proportion of the Fish and Wildlife Service budget.

Mr. CARPER. All right. Thanks very much.

Mr. GERST. And the actual numbers, if you want them, for Refuge O&M for 1988 is $396,000, and for the Migratory Bird Fund it is $943,000.

Mr. CARPER. Thank you.

Mr. STUDDS. The gentleman's time has expired. The gentleman from Maryland was the next present.

Mr. DYSON. Thank you very much. Thank you, Mr. Chairman.

On that $1.3 million, that is revenue that comes from the user fee at refuges, correct?

Mr. GERST. Correct.

Mr. DYSON. Thirty percent of which goes into an O&M account for those refuges?

Mr. GERST. Yes.

Mr. DYSON. And the rest goes to the Migratory Bird Fund. So the entire user fee account goes back into the system; it does not go into general revenue income. I wanted to clear that up.

I have a separate question for Mr. Dunkle regarding the Fish and Wildlife Service Cooperative Research Program. As you know, I have communicated with you by letter on that program, and I am very much interested in it.

As you also know, you operate 41 such units of that type around the country. They do a very good job, I think a very important job, of coordinating State and Federal, and university resources to focus on research problems affecting fish and wildlife.

The letter I sent you was to make a request for the University of Maryland-Eastern Shore. Dr. Bill Hytche, who is the president of that school, is very much interested in the possibility of being designated a cooperative research unit.

I do not know whether you know it or not, but the University of Maryland-Eastern Shore is a historically black college. It is also my understanding that none of these programs serve historically black colleges. They certainly go to colleges in which there are black students but not one designated as a historically black college.

My question to you today is to tell me your procedure for designating various colleges and universities as a center for these cooperative research programs, and I think obviously you know where I am going. I want to see UMES perhaps designated as one.

Now in the letter that I received back from you, I understand that you like the program. It has usually been the Senate Appropriations Committee, I think, that has probably replaced those extra monies back in there.

But could you just, in a brief way, tell me what your procedures are for designating universities or colleges in one of these cooperative research programs.

Mr. DUNKLE. Yes. First of all, we get a request, and that is generally how it gets started, and that request can come from an institution. It can come from the State Fish and Game Department or it can come—as in this case, from you, from Congress, or anybody else.

We have a three-way agreement that is established between the institution, the State Fish and Game agency, and the Service. We furnish the people and pay their salaries. They are Fish and Wildlife Service employees. The State furnishes, in many instances, vehicles—travel, that kind of thing. The university furnishes space, status, if you will, in terms of staff—being on the staff, so they have status with the university. They also furnish office space and the secretarial office-type requirements.

So it is a three-way endeavor, and it has been my policy—since I have been here for 2.5 years—to increase, at every opportunity, the use of the State universities in cooperation with the State Fish and Game and ourselves, and to do the kind of research and training of young people that are interested in this kind of a livelihood, a vocation, a profession, if you will.

Mr. DYSON. Are you saying to me, that if all of that comes together, we can get one at the University of Maryland-Eastern Shore? I think we have just about got all of that together.

Mr. DUNKLE. Yes. It is going to take your Fish and Game Department—and there is a little difference, usually a difference between universities in a State. When one hears that the other is looking for it, then all of a sudden they come clamoring to be heard and to be understood. We kind of leave that up to the State to settle.

We are not going to get into the State's business of who is best, if they are both qualified, and that means can they give those kind of degrees? Do they have the kind of staff that you would expect a university to have to train fish and wildlife people?

We supply, in many instances, stipends to help people go from a bachelor's to a master's degree, to do a study that we are interested in.

We think it is an excellent source of replenishment for young people coming into our kind of work. I can tell you that the Secretary is very interested in our approach to making available opportunities for minorities to come into our kind of profession, and we are working diligently at doing this.

Mr. DYSON. So you would agree this would be an excellent way, and a historically black college, like UMES, would be an excellent place to get minority students into the marine science professions?

Mr. DUNKLE. I would be well-disposed to it, but I have one other problem—that is money—and because of the deficit, we do not ask for money. I have utilized other funds that are available, both in the research budget and from monies that are left over in the return from States that after a period of time, let's say you have a Pittman-Robertson, Dingell-Johnson allocation that you have not used over a 3-year period, and so that then comes back to the Fish and Wildlife Service to be used in research.

And I have dedicated that money to establishing new cooperative units and keeping the other ones going. So that is our source of funds, and/or you cut a person out of one unit somewhere, and put them into a new one.

Mr. STUDDS. The time of the gentleman has expired.

Mr. DYSON. Mr. Chairman, could I have maybe a half——

Mr. STUDDS. That is all. I mean, why don't you just ask him to get the money from the same place he got the $2.7 billion.

Mr. DYSON. Well, I missed that part of the hearing. Could I just ask one other question?

Mr. STUDDS. Very quickly. We have to go on.

Mr. DYSON. And then he could respond later in the record.

I believe, Mr. Dunkle, that the black and minority populations are under-represented in this field, and I think your Cooperative Research Program could very much help in this area by designating at least one historically black college in that. Obviously, I would like to see that be UMES, and again, I thank the Chairman for the time, and if you could respond to that a little bit later to that, I would appreciate it.

Mr. DUNKLE. I think you and I need to talk about that, and we can.

[The information of Mr. Dunkle follows:]

The Service recognizes the under-representation of minority populations in fish and wildlife biology as a profession. We do have an effort in place to help remedy that situation. The service has fish and wildlife education projects at two Historically Black Colleges. A project specializing in fisheries is located at the University of Arkansas at Pine Bluff and one specializing in wildlife at Grambling College in Louisiana. These programs focus on undergraduate education which is the appropriate level for getting young Black students interested in this field.

Our Cooperative Fish and Wildlife Research units program, located in 40 university graduate programs throughout the nation, provides research opportunities and training to benefit fish and wildlife resources. Each of these Units require approximately $200,000 to develop and bring on line. The program is short of adequate funding as it now exists. It is the position of the Service that we currently have enough Cooperative Units to meet research needs and to produce adequate numbers of trained professionals to fill available positions in this field.

We are appreciative of your interest in the programs of the Service, but believe the Service does not need any additional Cooperative Units.

Mr. **Studds**. I have a feeling you will. The gentleman from California. Mr. Herger, any questions?

Mr. **Herger**. I have no questions, Mr. Chairman.

Mr. **Studds**. The gentleman from New Jersey, Mr. Pallone.

Mr. **Pallone**. Thank you, Mr. Chairman. I hope that I am not asking anything that is repetitive, but I noticed that once again there is talk about cutting back or putting a cap on the amount of money that comes from the Wallop-Breaux and the Pittman-Robertson funds.

And this is something that I constantly heard as a State legislator. Fishermen, sports fishermen, others involved, were upset over the fact that this money which they have to pay on an annual basis, or whatever, does not come back to them and that it is used for other purposes. I see it is mentioned specifically here that the cap, or the money that is being withheld, is for the purpose of Federal budget deficit purposes.

I feel very strongly that user fees such as these should not be used for purposes other than those for which they were intended. What are the effects of withholding that money?

It seems to me that if you go out and you ask users, whether they be fishermen or others, to constantly pay for new licenses, new fees and then tell them that the money is not being used for those purposes, but is being used for Federal deficit reduction, they obviously get very upset and feel that there is not a lot of concern on the part of the Federal Government for their needs.

I am just wondering what the effect is going to be of the withholding of those funds, and, again, the whole philosophy behind it.

Mr. **Dunkle**. I need to give you three answers.

The first one is that when we say deficit reduction—and this is one of the reasons that this Administration has gone along with this—that is to meet deficit reduction targets. Not putting money somewhere to reduce targets during the year.

The other is, it is deferring the outlay, it is not spending it somewhere else. It is deferring the outlay. Again I say that if this approach is not acceptable, then I am sure that you and I will hear about it, but it is a part of this Administration's approach in budgeting and I support that.

Mr. **Pallone**. Well, I guess we have not got to it yet with regard to a salt water fishing license, but it is the same phenomenon, basically, where you are suggesting, or the Administration suggests—it has in the past—that we impose new fees, and yet the fees that are currently collected are not necessarily being used in the way that was intended.

It is very difficult to get sports fishermen or any recreational users to understand that because to them it makes no sense. It does not make any sense to me, either.

I know there was some discussion about striped bass and funding for striped bass programs. I heard Congressman Hochbrueckner—I hope I am pronouncing his name properly—mention specifically the need for a program to identify—and this is true not only for New York, but also New Jersey—whether the source of striped bass off our coast is Chesapeake Bay versus Hudson River striped bass.

It is, again, something that concerns the fishermen in my area of New Jersey, and I hate to see funds being cut back for these various programs when there is a great need out there and the money seems to be available.

I think I heard that there were going to be cutbacks in terms of funding for striped bass tagging or research. Why has that been recommended?

Mr. DUNKLE. Because of the lack of money.

Mr. PALLONE. But here we have funds available, that are coming in, that the sports fishermen are paying. It is very hard to go back to them and say, hey, you are paying all of these user fees, and, at the same time we need research done on striped bass, but we cannot use the money that you are paying. It makes no sense to me.

Mr. DUNKLE. We have an increase in the tagging operation that you referred to, so we do have that back-up. We have increased the tagging operations so that we can continue to do that study.

Mr. PALLONE. Is there any study being done with regard to Hudson River bass versus Chesapeake Bay in terms of their migratory patterns off the coast of New Jersey and New York, as the Congressman mentioned?

Mr. DUNKLE. I would ask Mr. Smith to answer that for you, please.

Mr. SMITH. We have no study, at the moment, working with the Hudson River fisheries. There is good evidence that most of the fish that are caught off the coast of New Jersey originate in the Chesapeake Bay. I cannot say all fish caught off New Jersey originate in the Chesapeake, but the data that we do have at the moment indicate that most come from the Chesapeake.

Mr. PALLONE. Well, obviously, I am sure you know that a lot of New Jersey fishermen disagree with that. I would like to see your information—if it could be provided, through the Chairman—the data that they have accumulated, I would appreciate it.

Mr. SMITH. We could give you stock assessment information that we now have.

[The information of Mr. Smith follows:]

The coastwide striped bass tagging study provides basic information on the distribution and life history of striped bass within Chesapeake Bay and along the East Coast. In addition, results from the tagging study will be used to estimate fishing mortality rates, a critical element of the Atlantic States Marine Fisheries Commission's Interstate Management Plan.

Over 41,000 wild and over 36,000 hatchery striped bass have been tagged within the past 4 years, making this the largest tagging effort on record for the species. Tags have been applied not only within Chesapeake Bay but also at a variety of sites along the Coast. These sites include Newport and Pt. Judith in Rhode Island, Long Island, the Hudson River and offshore North Carolina. These studies are supported by National Marine Fisheries Service's ESBS funds, and Wallop-Breaux monies. The Service has also begun initial discussions with the New York Power Authority to integrate its existing tagging study on Hudson River fish the program coordinated by the Service.

During the 1970's when the Chesapeake stock was very abundant, as much as 90% of fish taken along the Atlantic coast came from Chesapeake Bay. In recent years, however, the Hudson River Stock has increased in abundance, allowing its contribution to the coastal population to range from 14 to 89%, depending on time of year. Given the high level productivity inherent to Chesapeake Bay, it is reasonable to assume that protection from fishing mortality will allow the Chesapeake stock to increase in abundance, just as Hudson River fish did when PCB contaminants closed commercial fisheries in New York and New Jersey in 1976).

Current methods of identifying stock composition of coastal migratory striped bass depend on natural marks, which include both genetic and morphometric characters. None of the existing stock identification procedures provide error-free estimates of stock origin; however, all methods have shown that coastal stock composition varies with time or year, sex of fish, and, most importantly, age (owing to differences in year-class strengths of contributing stocks.

Mr. STUDDS. An ancient and honorable debate.

Mr. PALLONE. Thank you.

Mr. STUDDS. Thank you. To go back, again, Mr. Dunkle, as I said in my opening statement, I am concerned about some allegations that have been made in recent months about the Fish and Wildlife Service management practices. I am sure you are aware of them, and I am sure you want, as much as I do, to clear them up.

That is one of the reasons I asked the General Accounting Office to look into the concerns that Representative Boxer and others have expressed about the transfer of Fish and Wildlife personnel on the West Coast, and I have directed the subcommittee staff to make some inquiries as well.

Given the limitations of time, I think the best thing we could do today is to make sure that we agree—you, and I, and we on the subcommittee—on some very basic principles that are relevant to the allegations, and that will help us to clear them up in a way what is fair to all concerned.

First of all, do you agree that fish and wildlife laws and regulations should be enforced equally against all citizens, and that changes in law-enforcement practices should be based solely on principles having to do with good law enforcement, not in response to political pressure?

Mr. DUNKLE. I would certainly take that question under consideration and respond in writing, Mr. Chairman.

Mr. STUDDS. Do you have some doubt as to the appropriate answer to that question?

Mr. DUNKLE. I do not like to just take a question of that magnitude without having the opportunity to review it carefully and respond in writing.

Mr. STUDDS. In that case let me read it to you one more time. It is not very long, it is not very complicated, and I think it comes under the category of a ball upon which you can clearly see the seams as it comes across the middle of the plate. I will read it to you again.

Do you agree that fish and wildlife laws and regulations should be enforced equally against all citizens? Start with that.

Mr. DUNKLE. I will be glad to respond to you in writing, Mr. Chairman.

Mr. STUDDS. In your judgment, that is an unanswerable question?

Mr. DUNKLE. No. In my judgment, I am going to respond to you in writing, not verbally to that question.

Mr. STUDDS. That question you think requires some further thought on your part?

Mr. DUNKLE. No, it does not require further thought. It requires that I will respond in writing.

Mr. STUDDS. May I just ask you why that strikes you as a particularly difficult question requiring a written answer rather than a yes or no?

Mr. DUNKLE. Well, I am not sure that I understand what you are getting at.

Mr. STUDDS. Let me try again. As I said, I thought we might be able to agree—in fact I assumed we could—on some very basic principles, and I am going to ask you a series of questions based on those principles. I frankly did not think that you, or anyone else, would have difficulty answering them.

I will try one more time, and if you want to decline for further consideration you certainly may do so.

Do you agree that fish and wildlife laws and regulations should be enforced equally against all citizens, and that changes in law-enforcement practices should be based solely on principles having to do with good law enforcement, not in response to political pressure?

Mr. DUNKLE. Well, first of all, I think we should define political pressure. That is when you and I have different political views, just so we understand that.

Mr. STUDDS. I have not said anything, political or otherwise. I am just asking a question.

Mr. DUNKLE. You said political pressures, Mr. Chairman.

Mr. STUDDS. That is correct. That is a question you want to think about more and answer in writing?

Mr. DUNKLE. I guess I will still respond in writing.

[The information of Mr. Dunkle follows:]

Mr. DUNKLE. It is difficult to determine what is meant by "political pressure." Many natural resource conflicts occur. Elected officials—Governors, Members of Congress, State Legislators, and others—hear from their constituents, or acquaintances. Then, may contact the Fish and Wildlife Service or other agencies to obtain further information on an issue, or to express a position which may reflect an interest of the electorate. That may constitute "political pressure" in the minds of some, and in the minds of others it may be just an inquiry, or an expression of position.

To respond to a part of your question: Yes, I do agree that fish and wildlife laws and regulations of the United States should apply equally to all citizens—and, I might add, to foreign citizenry also insofar as we may have authority to apply them. The second part of your question, asking whether "changes in law enforcement practices should be based solely on principles having to do with good law enforcement," does not appear to me a simple question. I believe that in this country—the United States—the rights of citizens and their individual freedoms are extremely important and merit careful protection. Good law enforcement is law enforcement that also recognizes these values. So, to that part of the question, my answer must be: No, I do not agree that changes in law enforcement practices should be made solely for law enforcement reasons if those changes might encroach upon these citizen rights and freedoms. Our law enforcement policies have to be based upon much more than just to make policing and law enforcement easy.

Mr. DUNKLE. But I will say that it is my job to carry out the laws set forth by Congress, and then further down into regulations, and I have done exactly that in——

Mr. STUDDS. Let me try one more time. Maybe you misunderstood or maybe I did not speak clearly, and I apologize for repeating for the third time, but I am going to give you one more chance just to answer here.

Do you agree that fish and wildlife laws and regulations should be enforced equally against all citizens?

Mr. DUNKLE. Well, may I ask a question to be sure I understand what you are saying?

Mr. STUDDS. I do not think it is complicated.

Mr. DUNKLE. Why do you ask the question? Why would you even think that I might not carry out my responsibilities properly?

Mr. STUDDS. Well, I did not think you would have difficulty answering the question, to tell you the truth.

I began by saying I think the best thing we can do is to make sure we agree on some basic principles that are relevant to some of the allegations that have been made. It will help us to clear the air, in fairness to all concerned.

I would assume we share—you, as the Director of the Fish and Wildlife Service, and we as the committee of jurisdiction—we share that interest, and that is why I thought we might try to establish some, frankly, I thought, undebatable and unarguable principles upon which we would clearly agree.

Mr. DUNKLE. May I ask if your question is do I believe that laws should be enforced fairly and properly across the board?

Mr. STUDDS. Against all citizens, yes.

Mr. DUNKLE. Sure.

Mr. STUDDS. Thank you.

Let me try this again, slowly, so you can hear clearly. It is not long, and it is not complicated and it is not a trap. I am just trying to establish some general principles.

Do you agree that political concerns should never be allowed to take precedence over scientific objectivity or responsibility to the law in Fish and Wildlife Service objectives?

Mr. DUNKLE. Would you read that again.

Mr. STUDDS. Do you agree that political concerns should never be allowed to take precedence over scientific objectivity or responsibility to the law in Fish and Wildlife Service activities?

Mr. DUNKLE. I guess it is improper for me to counter with a question, but do you believe that, too?

Mr. STUDDS. I assume that the answer to that is yes. Do you not also?

Mr. DUNKLE. You are saying yes, you agree?

Mr. STUDDS. Let me just state to you, sir, that I am asking the questions of you.

Mr. DUNKLE. I asked if it was possible——

Mr. STUDDS. Well, you may, but I would appreciate your answering it first.

Mr. **Dunkle**. Do I believe that we should move biologically, and not politically under all circumstances? Is that what you are saying?

Mr. **Studds**. That is not quite what I said.

Do you agree that political concerns should never be allowed to take precedence over scientific objectivity in Fish and Wildlife Service activities?

Mr. **Dunkle**. I believe that if you give me political problems, and you allow me to have the best biological information that is available, I can give you a program, a management approach, or a solution that will probably take care of both of those needs.

Mr. **Studds**. Well, the record will reflect the degree to which you think these questions can and cannot be answered straightforwardly.

Do you agree that Fish and Wildlife Service professionals should not be transferred or fired simply for reaching scientifically-based conclusions different from the policy preferences of their superiors, either within the Service or elsewhere in the Department of the Interior, or the White House?

Mr. **Dunkle**. I have never transferred anybody because they chose——

Mr. **Studds**. That was not the question, Mr. Dunkle. You are not being accused of anything at this point. I am simply trying to establish some general principles, and I am a bit surprised at your defensiveness. These are not charges.

Let me try again. Do you agree that Fish and Wildlife Service professionals should not be transferred or fired simply for reaching scientifically-based conclusions different from the policy preferences of their superiors, either within the Service, or elsewhere in the Department of the Interior, or the White House?

Mr. **Dunkle**. I believe that they should not be transferred or fired for that difference, but they also work for the Service, take their pay check from the Service, and they certainly should understand teamwork and approach, and that their biological findings are proper and they should be giving them. But they also understand there are all kinds of other implications to the decisions that come to solution of those problems.

And as the manager of the Fish and Wildlife Service, I think that you would also accept that personnel problems are the Administration's determination, and we stay within the law in determining wildlife decisions for personnel and for habitat, and for wildlife.

Mr. **Studds**. Mr. Dunkle, are you willing, both in Washington and at your regional level, to cooperate fully in the General Accounting Office investigation, and to respond fully to inquiries from this subcommittee, its members, and its staff?

Mr. **Dunkle**. Certainly. You have asked for a GAO accounting to look at our personnel practices. If you are so inclined, we always work closely and provide everything that is necessary.

When your people have called out to our regions, they have been given honest and straightforward answers, and they will continue to get those.

Mr. **Studds**. I appreciate that. Would you be willing to issue a written directive to Fish and Wildlife Service personnel to that effect?

Mr. **Dunkle**. I think it is understood that they should cooperate.

Mr. **Studds**. Finally, do you agree that anyone found to have put political considerations above the law, to have ordered the removal or transfer of Fish and Wildlife Service personnel for political reasons, or to have created an atmosphere within the Service that is not conducive to the free expression of scientific and professional opinions, should be removed from any position of leadership within the Department of the Interior and the Service?

Mr. **Dunkle**. I do not know the reason for your question.

Mr. **Studds**. Well, you do not have to, I would assume, in order to answer it.

Mr. **Dunkle**. I would prefer to answer that in writing.

Mr. **Studds**. That one requires further thought?

Mr. **Dunkle**. I did not say that. I said I would prefer to answer it in writing.

Mr. **Studds**. That is a question that you find impossible to answer at this point?

Mr. **Dunkle**. I did not say that. I said I would like to answer it in writing.

Mr. **Studds**. Would you kindly tell us why you would prefer not to answer it now.

Mr. **Dunkle**. I think it is a prerogative that I must have.

Mr. **Studds**. I am going to read it one more time just so you will hear it, and can determine for sure, for yourself, whether you think it is an answerable question at this point.

Do you agree that anyone found to have put political considerations above the law, to have ordered the removal or transfer of Fish and Wildlife Service personnel for political reasons, or to have created an atmosphere within the Service that is not conducive to the free expression of scientific and professional opinions, should be removed from any position of leadership?

Mr. **Dunkle**. Why don't we wait and see. The answer is I am going to answer that in writing.

[The information of Mr. Dunkle follows:]

Mr. **Dunkle**. My immediate reaction would be to respond in the affirmative; however, your question is very similar to allegations that have appeared in newspaper articles about the Fish and Wildlife Service that apparently stem from the claims of a disgruntled former employee. Because that person still has his case under appeal and has obtained legal counsel and threatened suit, I have been advised not to respond publicly to such allegations, regardless of whether I know them to be false.

Mr. **Studds**. Now let me make something clear that I guess may not be clear.

Mr. **Dunkle**. And I would like to see copies of all those.

Mr. **Studds**. I have not reached, and I assume no member of this subcommittee has reached any conclusions about allegations that are around here, and you are aware of them as we are. But the allegations are serious and they deserve to be taken seriously.

They include, first, the possibility that the regional director in Portland was reassigned for essentially political reasons.

Mr. **Dunkle**. That is not true.

Mr. **Studds**. Just a moment, sir. These are not questions. I am going to state for the record the allegations, and let me assure you, and repeat what I said a moment ago. I have reached no conclusions about them nor has anyone else, but we would be derelict in our duty, given the number and the seriousness of these allegations, and the variety of sources from which they have come, if we were not to pursue them.

And we would be unfair to you if we were not to give you an opportunity together with us to clear them up once and for all.

Now let me state what they are. First, the possibility that the regional director in Portland was reassigned for essentially political reasons, and that Congress has been misled about the reason for that reassignment.

Second, that the staff in the Fairbanks, Alaska office was ordered by Washington to destroy its files on the Niakuk proposal.

Third, that political pressures may have influenced the handling of a petition to list the spotted owl as an endangered species.

Fourth, that proper procedures were not followed in considering the biological impacts of the Two Forks Dam project.

Fifth, that Fish and Wildlife Service personnel in many areas have been required to carry out directives based on verbal rather than written instructions, and employees in at least one office were required to sign a pledge that they will not even keep a memo on file without approval from above.

And sixth, the Fish and Wildlife Service came under political pressure to reassign law-enforcement personnel at the Blackwater Wildlife Refuge in Maryland.

Now some of these allegations come from environmental groups; some come from Fish and Wildlife Service personnel; some from Members of Congress; and the last from a former Republican Assistant Secretary of the Interior, Nathaniel Reed, who wrote to you last September. And I quote from that letter to you from Mr. Reed, Assistant Secretary of the Interior under the Nixon Administration.

"A very disturbing sequence of events that involved Fish and Wildlife Service personnel on Maryland's Eastern Shore." He mentioned then—I am not quoting for a second. He mentioned that he heard about—and now I quote again—"an influential lobbyist in Washington who was arrested on waterfowl violations by the refuge manager of the Blackwater National Wildlife Refuge, and who has continued his illegal practices and succeeded—I am still quoting—in having the Blackwater manager reassigned."

"Additionally it was alleged that baited fields were discovered on property used by—and I am going to leave out a name here—a U.S. Senator, and that high powers interceded on the Senator's behalf."

I continue to quote from Mr. Reed's letter. "All of this causes me consternation, but then so much of what has gone on in the Department of Interior the last 8 years is so reprehensive that nothing amazes me anymore. I suspect there is some truth to these allegations. Frank, what is going on?"

Mr. Dunkle, our subcommittee appreciates your willingness to work with us to find out just what is going on. As I said, I think it is in our mutual interest to do so.

I trust that you, like this subcommittee, have the well-being of the Fish and Wildlife Service at heart, and I hope that together, in the days ahead, we can succeed in clearing the air.

Now before we proceed to the other members' questions, and this is a request for your cooperation, an effort which I trust you will agree is in the interest of the Service, of the Congress, to resolve these allegations.

I certainly will give you an opportunity to say something at this point. You are not expected to or required to. We are going to work with you, I trust, to try to resolve all of the questions that have arisen.

If there is anything you would like to say at this time before we proceed to other members, you certainly may.

Mr. DUNKLE. I do not agree with the allegations that you have brought forth, and I think that your investigation with your staff, calling members of the Service, with the General Accounting Office investigation—I think you will find that the allegations are unfounded and inconsequential, and that you are only on a witch hunt.

Mr. STUDDS. We will go on to the other members. I guess what you are saying to us is don't worry, be happy, and there is another old saying, that the truth will set you free, and we will see if we can do both.

The gentleman from New Jersey, who has waited patiently. Mr. Hughes, any questions?

Mr. HUGHES. Well, I do not have any questions. Am I to understand that we are going to receive a written response to all the questions that were asked? We are going to receive a written response? Is that your intent, Mr. Dunkle?

Mr. DUNKLE. For which questions, sir?

Mr. HUGHES. On a number of the questions you indicated that you would rather respond in writing.

Mr. DUNKLE. Oh, if that is the desire of the Chairman, certainly.

Mr. STUDDS. I would say—if the gentleman will yield—the Chair's desire, I thought quite clearly, was to give you an opportunity to respond now. It was my understanding that you wished to respond instead, in writing, for some reason. I believe those are the questions to which the gentleman refers.

Mr. HUGHES. Well, I do not know anything about the allegations either, but, if true, they are very serious allegations, I think you would agree, and, frankly, I would like to know a little more about them.

Am I to understand that we are going to receive the cooperation of the personnel within Fish and Wildlife that have made some of these allegations? I would ask the Chairman. What is the next step? It seems to me you have whetted my appetite, and I would like to know where we go from here to resolve the questions and the allegations.

It also seems to me that the next step would be for us to either interview or to confront those that are making the charges.

Mr. STUDDS. Let me say to the gentleman, if he will yield, that as I indicated the allegations—that is all they are—come from a wide variety of sources. Some of them are our colleagues in the Congress; some of them are former officials of the Interior Department.

Mr. HUGHES. I do not know what we can do about the Members of Congress. You know how difficult they are——

Mr. STUDDS. Well, they can be talked to. Some are from outside groups, and some are indeed from personnel within the Fish and Wildlife Service. Obviously our concern is that those people be protected in terms of—and that is why I asked the director if he would be willing to put in writing the instructions with his personnel to cooperate with the investigation.

Mr. HUGHES. I think we can work on the assumption that if personnel within the Fish and Wildlife Service have information that is relevant to these charges, they will be made available for us to interview.

Mr. DUNKLE. They have been called and contacted.

Mr. HUGHES. They will be directed to respond to our questions.

Mr. DUNKLE. You do not have to do that. They have been called regularly in the last two weeks, and they have responded without any fear of retribution, and I think that the question, will I put out something in writing, is improper.

I think our people will respond honestly and properly because we do not have a problem that is kind of indicated here. The morale is good, except for those people who do not like some things.

A person was reassigned who was complaining loudly. He is still in the process of some of the administrative opportunities that he has, and consequently, I am not responding because I do not want to have him have problems in his proper review with the Merit Board System, and I just think it is improper for me to respond to these questions and allegations.

I do not know the specific sources. I know the people that have been contacted. I know the folks that wrote a letter and signed it do not have the facts.

They are being blown out of proportion by several people who were with the Service before my time. I do not understand the problem, and it is the prerogative, and the authority and responsibility of a person running an agency to see that it is run properly.

And sometimes that means moving people, and sometimes they do not want to move. But by the same token, I have no problem with a proper and open investigation. I would like the opportunity to work closely with the General Accounting Office. I would hope that our people would give honorable and proper answers, and I would hope that we would have the opportunity to respond properly and to confront—you know, in the United States you are allowed to confront your accusers.

I do not know who all these people are that the Chairman is talking about.

Mr. HUGHES. I understand. Let me ask you about one specific charge, alleged hanky-panky going on on the Eastern Shore of Maryland.

Did you respond to the September 12, 1988 letter of Nathaniel P. Reed?

Mr. DUNKLE. Did I?

Mr. HUGHES. Yes.

Mr. DUNKLE. Yes. On the phone.

Mr. HUGHES. Is there anything in writing?

Mr. DUNKLE. If there was, you have it.

Mr. HUGHES. I have it? I never heard about it until today. So I mean, I do not have anything.

Mr. DUNKLE. And I wonder where you got a copy of the letter.

Mr. HUGHES. It was just handed to me by staff.

Mr. DUNKLE. No; I understand. I mean, where did the staff get the copy?

Mr. HUGHES. I suppose Mr. Reed furnished it to the subcommittee. Do you know Mr. Reed, personally?

Mr. DUNKLE. Yes. I do. Very well.

Mr. HUGHES. And what was the gist of your response to him, if you would be willing to share that with us?

Mr. DUNKLE. That those concerns were not valid that he had.

Mr. HUGHES. So there was not a wealthy influential lobbyist in Washington arrested on waterfowl violations at Blackwater National Wildlife Refuge?

Mr. DUNKLE. Yes, I think there was, but it was before my time.

Mr. HUGHES. Well, that does not suggest—was there any substance to the charge, that basically, he avoided prosecution?

Mr. DUNKLE. Pardon me? That he avoided prosecution?

Mr. HUGHES. Yes. Was he prosecuted?

Mr. DUNKLE. To my knowledge, I cannot tell you.

Mr. HUGHES. But that was before your watch, you say?

Mr. DUNKLE. I do not know what the results of his case were.

Mr. HUGHES. How about the allegations of baited fields used by a Senator? God forbid. Baited fields.

Mr. DUNKLE. The allegations that they were baited?

Mr. HUGHES. That a Senator, a United States I presume—it does not say—or a State Senator, was using baited fields which is a violation of the law. Is that something that was checked?

Mr. DUNKLE. Well, it depends, Congressman. You can bait any place you want. The problem is if you hunt over the bait. Did the Senator that we are talking about hunt over the bait? Was he arrested?

Mr. HUGHES. I do not know. I am asking you. I mean, these are charges that fall within your jurisdiction and I want to know if you determined whether there is any substance to that.

Mr. DUNKLE. I did not find any substance to that.

Mr. HUGHES. Did Mr. Reed identify the Senator for you?

Mr. DUNKLE. You have the letter there.

Mr. HUGHES. I do not see a name here.

Mr. DUNKLE. I do not think it is appropriate——

Mr. HUGHES. All I have is a blank.

Mr. DUNKLE. I do not think it is appropriate that I discuss——

Mr. HUGHES. I am not asking you the name. I am asking you if he identified him for you.

Mr. DUNKLE. Who?

Mr. HUGHES. Mr. Reed. Nathaniel P. Reed. Did he identify the Senator for you?

Mr. DUNKLE. The Senator's name may have come up in his and my discussion which I do not think is appropriate for discussion here.

Mr. HUGHES. No, I am asking you if he had—maybe we are not communicating. I asked you if he identified him for you, the name. Did you understand who the Senator was?

Mr. DUNKLE. Yes. I did.

Mr. HUGHES. All right. Was there enough for you to investigate to see whether there was any substance to the charges?

Mr. DUNKLE. Certainly I would investigate a report like that.

Mr. HUGHES. And who, in your agency, investigated the charges?

Mr. DUNKLE. I asked our enforcement people to look at the files and let me know what the background was.

Mr. HUGHES. Who, specifically, in the Enforcement Branch?

Mr. DUNKLE. Well, I asked the assistant director for Wildlife to make the appropriate inquiries to law enforcement.

Mr. HUGHES. And was there a file? Was there an open investigation? Was a file opened?

Mr. DUNKLE. You mean of whether or not this happened?

Mr. HUGHES. Yes. To determine whether or not there was any substance—look, when somebody makes a charge—and this seems to be a rather serious charge—you refer it to the enforcement branch. That is standard operating procedure, I would think, and, if there is any substance to it, you open a file.

I am asking you: did it reach that stage?

Mr. DUNKLE. I do not think so.

Mr. HUGHES. Do you have a record within your agency of any investigation that was conducted relative to these charges?

Mr. DUNKLE. I am sure we do.

Mr. HUGHES. Can you share those with us?

Mr. DUNKLE. I would have to check with the solicitor to see if that is acceptable.

Mr. HUGHES. Well, I do not know why it would not be acceptable. They are public records, aren't they?

Mr. DUNKLE. Up to a point.

Mr. HUGHES. Is there any classified information in there?

Mr. DUNKLE. As I say, if the solicitor says it is fine, I would be glad to do it.

Mr. HUGHES. Before you called Nathaniel P. Reed, had an investigation taken place?

Mr. DUNKLE. I do not recall when that letter was.

Mr. HUGHES. September 12th, 1988.

Mr. DUNKLE. I would have to check.

Mr. HUGHES. Is it possible you called him before an investigation was complete?

Mr. DUNKLE. I think I would have the facts before me before I called anybody about anything.

Mr. HUGHES. I would think so.

Well, perhaps, Mr. Chairman, one of the things we can find out—because this is something specific—is whether or not there is an investigation. A file that was completed in connection with the charges of Nathaniel P. Reed.

Now, how about the other charges that were made? Do you intend to bring those individuals in, or what is the posture?

It seems to me that if you are going to raise the issue, you need to follow through and either clear the individuals or——

Mr. DUNKLE. I did not raise the issue.

Mr. HUGHES. I am talking to the Chairman.

Mr. STUDDS. Let me say to the gentleman that we have requested and there is underway a GAO investigation of several of these. We have been requested by some 20-Members of Congress, in a letter originated by Mrs. Boxer, to pursue a whole other series of questions which I mentioned here, and we have had other suggestions—

from Mr. Reed and others—on questions, as the gentleman has indicated, that I think are worth pursuing.

Initially we are pursuing them through the GAO and through our own staff. That is why I asked the director if he would be willing to cooperate and to direct his staff to cooperate.

The steps beyond that, based upon what the GAO finds and what our staff finds, we will consult together in terms of the appropriate next step.

Mr. HUGHES. So, if the gentleman would again respond, it is your intent to wait for the General Accounting Office to complete their report?

Mr. STUDDS. No. At the same time our own staff is proceeding with its own investigation.

Mr. HUGHES. So it is your intent to convene another hearing once that information is available?

Mr. STUDDS. I am sure that will be the case.

Mr. HUGHES. Confront the charges?

Mr. STUDDS. Absolutely.

Mr. HUGHES. All right. Mr. Dunkle, I would like to know whether or not a file was completed in reference to the Nathaniel P. Reed charges, and, if so, whether that will be made available. Would you get that for me?

Mr. DUNKLE. Sure.

[The information of Mr. Dunkle follows:]

Mr. DUNKLE. No file was initiated or completed in response to the letter from Mr. Reed. He had requested in handwriting on the letter, that I talk to him by telephone, and I did.

Mr. HUGHES. Thank you. Thank you, Mr. Chairman.

Mr. STUDDS. Thank you. The gentlelady from Rhode Island. Thank you for your patience.

Miss SCHNEIDER. Thank you, Mr. Chairman, and I will be shifting gears for a moment, and getting back to my original line of questioning.

Certainly on a much brighter note, I will share with you that there are some gentlemen in your employ that did a terrific job in hosting my colleague, Congressman Pallone, and myself on our New Jersey trip to investigate and do some oversight as to what was going on with the enforcement of CITES.

Certainly Mr. Ron Lambertson and Marshall Jones, and Clark Bavin were terrific in providing us with all of the data and information that we needed.

But as we started the earlier line of questioning about the user fee, and how much more money could possibly be raised for wildlife inspection if the threshold were lowered to $10,000 a year, your assistant had indicated that that was something that was being reviewed.

What I am interested in knowing also, is the $125 license and the $25 permit fee adequate to cover the actual inspection costs right now?

I mean, we are talking numbers here, and I would think that there would be an internal review to see what kind of expenses are covered by that fee.

Mr. DUNKLE. Mr. Olsen.

Mr. **Olsen**. The only thing I can add—that is, if the price were reduced we would have substantially more income, and I do not have the facts and figures on it at this point in time.

Miss **Schneider**. Well, what we found out in this investigation was that the inspectors really had their work cut out for them, and the fact that there are only 56 inspectors in the entire United States covering nine points of entry, I cannot imagine how you would have adequate personnel to do the job.

One of the things I had recommended in our hearings last July was for the Fish and Wildlife Service to pursue the possibility of involving voluntary organizations or individuals, and I wonder if since that recommendation of mine last July, has there been any follow-up and review as to whether or not that proposal would be a good one or a bad one?

Mr. **Olsen**. Not to my knowledge, but I would be glad to check into it.

Miss **Schneider**. I would appreciate it if you would follow up on that because it seems to me that where you claim this 33 percent reduction is warranted, I have a difficult time with that.

[The information of Mr. Olsen follows:]

The Service has a very active volunteer program with more than 7,000 volunteers nationwide. The concept of using volunteers at the ports to handle clerical and data entry duties was started with one volunteer in 1988 at the Port of Sacramento. This particular volunteer did an outstanding job and has since been hired as a permanent employee. The Service plans to use additional volunteers at ports along the west coast as a pilot program. If they work out as expected, the program will be expanded to other major ports.

Miss **Schneider**. When we talk about the user fees, granted, it provides some money, but it does not seem to be adequate to have the full number of personnel that might be needed, and if a voluntary component would be useful, I would like to know whether or not you have studied that.

And if you do not intend to study it, then perhaps we can have some outside body look into it.

But the bottom line is: we have signed CITES. If we sign a treaty as the United States and the international leader in the enforcement of the Endangered Species Act, then I expect us to take leadership.

And if we look through the chain of command and find that we cannot provide the leadership necessary because of money, then certainly where there is a will there is a way; but the rest of the world is watching, and I think that it is imperative that the United States provide that leadership that we did initially when we signed the CITES agreement.

One other thing I would like to mention is that it seems to me that there is virtually no enforcement, from what I understand, of the Endangered Species Act in the Pacific area.

And when looking in New Jersey—and my colleague I am sure will reinforce this—many of the goods that we found shipped here were from the Pacific, and I wonder if you could give me a rundown as to what the inspection and oversight is in the Northern Marianas, and also Guam, and that area.

Mr. Olsen. I think most of the imports that come in from the Western Pacific are handled through Honolulu where we have a port of entry.

Miss Schneider. Well, just to share with you something interesting. I had the opportunity to be in the Pacific not too terribly long ago, and in discussing what was permitted to come in and out, I will say that most of the information that was generated there was generated by a nonprofit organization.

And there was much discussion about how materials, illegal materials—whether they be skins or feathers or whatever—move through the United States, and in talking to a number of, let us say, non-Americans, the word was that it is easy to get things through the United States. Where you have to be careful is in Cannes, Australia.

So if we have this kind of international reputation of not inspecting our ports adequately, then I think that, too, does not speak very well of the job that we are doing.

From what I saw in New Jersey and New York, they are doing an awesome job with the resources that they have. I am not as familiar with what is happening in the Pacific, but I am sharing with you the feedback that I got from the international community, and I think that it is lamentable that we cannot hold our heads up as high as I believe we should in so far as the trade in endangered species is concerned.

Is there some remedy, or is there any effort to address this challenge?

Mr. Dunkle. We are trying to be a good partner in the CITES area. We are operating and working members of CITES, and where we find evidence of a problem, I have no hesitation to move in and see if we cannot correct it.

Miss Schneider. Well, I think we do have a problem here particularly since you are calling for a 33 percent reduction in the overall programs for endangered species.

So, if the job, by some indications, is being inadequately done at this point, I cannot imagine how we can enforce this treaty with the 33 percent reduction. This is the 33 percent for endangered species, now, that I am referring to.

So, if you could—and I do not want to take up my colleagues' time because they may have additional questions of you—but if you could supply to me in writing, please, how you might foresee the reallocation of funds with this 33 percent reduction in the Endangered Species Act, and what the inspection fee is as to whether or not there might be greater opportunity with fees, and thirdly, with the voluntary sector.

And if you have put together a comprehensive plan on how to do the job that you are intended to do, given those three parameters, I would be most appreciative.

Mr. Dunkle. We will do that for you.

[The information of Mr. Dunkle was never received for the record.]

Mr. Dunkle. I should mention that we have no reduction in the endangered species law-enforcement efforts.

Miss Schneider. Well, in the recovery efforts there is an 18-percent cut expected.

Mr. **Dunkle**. Yes.

Miss **Schneider**. And in the overall programs, though, 33 percent. It seems to me that when you cut some area, that will have a major impact in the enforcement end.

Mr. **Dunkle**. But we have not cut the enforcement budget in endangered species.

Miss **Schneider**. I understand that, but you are cutting 33 percent from the entire program. Even though it is not from enforcement, where is that 33 percent going to come?

Is it going to come from education and training? I think that that would be inappropriate because you cannot have enforcement officers enforcing the law if they are not educated and trained as to how to do the job well.

I do not know where you are going to take that 33 percent from and I think that that is something that I would like to have more clearly spelled out.

Great, I am delighted it is not coming from enforcement, but I think that there are other components of that that we ought to consider as a whole.

Mr. **Dunkle**. We will be happy to furnish you with that.

Miss **Schneider**. Terrific. Thank you very much.

Mr. **Studds**. Let me just observe—I thank you—that there are three members left who may have questions. Mr. Dunkle has told us from the beginning that he has to leave at 12:00, so if the three of you can bear that in mind.

The gentlelady from Washington.

Mrs. **Unsoeld**. Mr. Dunkle, we are all aware that there is a confrontation between an agency and an Administration, its policies, and the Federal employees whose responsibility it is to carry out the law.

It is often a matter of interpretation, but sometimes there are actual wrongdoings that need to be brought to the attention of the public.

And in the long-run, it is the public's right-to-know and decide for themselves the merits of the information and of the actions of any agency.

Does your agency have a policy for protection of whistleblowers?

Mr. **Dunkle**. Oh, indeed, and we have not had a problem with whistleblowers. And let me assure you, Congresswoman, that we are very open and above board with all of our policies with personnel, with all of our transfers, with all of our reassignments.

And it goes through a very intricate set of reviews before we do anything.

Mrs. **Unsoeld**. Would you be kind enough to supply the committee with a copy of that policy, please.

Mr. **Dunkle**. Yes, ma'am. I would be very happy to.

[The information of Mr. Dunkle follows:]

11. **WHISTLEBLOWERS**—A description of the current policy within the Department and the FWS on whistleblowers.

Congress has established that a prohibited personnel practice occurs if a management official recommends, approves, or takes a personnel action as enumerated in 5 USC 2302(a)(2) for one of eleven reasons specified in 5 USC 2302(b). Within the eleven categories is the determination that reprisal against a statutorily—defined whistleblower is a prohibited personnel action. Title II of the Act established within the Merit Systems Protection Board, an independent Special Counsel responsible for investigating and prosecuting the enumerated prohibited personnel practices.

The Department fully supports established law and regulation which allows for and establishes protections to safeguard employees who disclose waste, fraud, abuse, or other instances of mismanagement. Within the Department of the Interior, the Office of Inspector General (OIG) has established a Hotline phone number to facilitate the receipt and investigation of whistleblower complaints alleging wrongdoing. To ensure widespread distribution of the phone number, each year the OIG has wallet sized cards with current pay tables printed on one side and the Hotline number printed on the reverse. The cards are available throughout the Department. The Hotline phone number is prominently displayed in the Department phone book which is accessible to all employees (Attachment A). Within Part 355 of the Departmental Manual are the established procedures for receiving, investigating, and ensuring the confidentiality of complaints (Attachment B). This Manual is maintained by 1,285 offices throughout the Department, including 56 offices within the Fish and Wildlife Service (Service), to ensure that employees have access to this material.

The subject of public versus private expression by employees is a related issue and the Department has established regulations under 43 CFR Part 20.735, Employee Responsibilities and Conduct, to stipulate Departmental policy (Attachment C).

The Service fully supports existing law, regulation, and Departmental guidance in this area. The Service provides a copy of the aforementioned regulation (43 CFR Part 20.735) to every incoming employee as well as maintains 43 CFR material in every personnel office. The Service further clarifies this area in the Service Administrative Manual at 7 AM 1.6, which provides detailed guidance with regard to public versus private expression (Attachment D).

Also included in the Administrative Manual under 22 AM 22, are Service grievance procedures which provide for eligible concerns or complaints to be reviewed both internally and by an external hearing examiner (Attachment E). The Service Administrative Manual is maintained by 1,100 Service offices throughout the Agency and care has been taken to ensure that this material is accessible to all staff.

Service management has made clear through recent issuances that direct or implied suppression of employee rights to disclose fraud, waste, abuse, or illegal conduct will not be supported or condoned. A memorandum issued on December 20, 1988, further stipulated that "employees may utilize the Inspector General and General Accounting Office services as necessary, and should feel free to communicate with their representatives" (Attachment E).

[Attachments A thru F can be found at the end of the hearing.]

Mr. DUNKLE. And if I may call to your attention: I have no hesitancy to be cooperative, open and above board, with any of the allegations that have been mentioned from your area, as some of them are. We will work diligently with the committee and with GAO to accomplish a review. I am just positioning, as is the committee, to be sure that my side is properly and honestly told, and that if there are some areas that maybe I think the committee should look into, I would like the opportunity to indicate that.

And I have no hesitancy for my integrity nor the integrity of the Service, nor its treatment of its employees to be reviewed and scrutinized.

Mrs. UNSOELD. Thank you.

Mr. STUDDS. The gentleman from North Carolina.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. Dunkle, I am going to shift the light from alleged personnel irregularities to a less explosive topic, striped bass. Perhaps it may not be less explosive as we go along. At least for the moment, I think it will be less explosive.

Mr. DUNKLE. Nice try, Congressman. Thank you.

Mr. COBLE. Pardon?

Mr. DUNKLE. Thank you.

Mr. **Coble**. My colleague from New Jersey alluded to it earlier, so obviously, the Striped Bass Act has taken on geographic overtones.

You will recall, Mr. Dunkle, that last year the Congress enacted as part of the Striped Bass Act a requirement to undertake a North Carolina striped bass study.

Now, needless to say, Chairman Jones shares my concern about this. The Fish and Wildlife Service has the lead in this program, and it is obviously very important to North Carolina, my State and the Chairman's State.

I assume that you all at Fish and Wildlife intend to support this study in 1989 and 1990.

Now is this a correct and accurate assumption?

Mr. **Dunkle**. Congressman, the Chesapeake Bay clean-up is very important. We have dedicated a specific group to working on that.

That also takes into account striped bass and anadromous fish on the East Coast, and so we are looking at the striped bass from the Gulf Coast up along the Carolinas, Virginia, and up into New Jersey and New York, and parts of Delaware.

An important function is to restore and protect those runs of striped bass, and I can tell you that we intend to pursue this effort to the very best of our opportunities, both budget-wise and personnel-wise.

We will have to set priorities, as you would expect. I hope we can set those properly in the best interest of the striped bass population.

Mr. **Coble**. Thank you, Mr. Dunkle. Thank you, Mr. Chairman.

Mr. **Studds**. The gentleman from New Jersey.

Mr. **Hughes**. No questions, Mr. Chairman.

Mr. **Studds**. We just made your deadline, Mr. Dunkle. Sorry to keep you to the last minute. We look forward to working with you. We take you precisely as you said, we will work in the same spirit, and we will try to clear the air, once and for all, for all concerned.

I think it is very much in the public interest.

Mr. **Dunkle**. Thank you, Mr. Chairman. I appreciate a working, cooperative set of days ahead of us.

Mr. **Studds**. Thank you.

We will go next to Mr. James Brennan speaking for NOAA and the National Marines Fisheries Service. There must be something about NOAA that is inherently less interesting, Mr. Brennan.

Mr. Brennan, why don't you just proceed and feel free to summarize if you wish, and your full written statement will appear in the record.

STATEMENT OF JAMES BRENNAN, ASSISTANT ADMINISTRATOR FOR FISHERIES, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION; ACCOMPANIED BY JAMES DOUGLAS, DEPUTY ADMINISTRATOR; AND JAMES H. CZERWONKY, CHIEF OF THE BUDGET AND PLANNING DIVISION, NATIONAL MARINE FISHERIES SERVICE

Mr. **Brennan**. Good morning, Mr. Chairman, and members of the subcommittee.

Mr. STUDDS. The usual admonition: come closer to your microphone. Thanks.

Mr. BRENNAN. My name is James Brennan and I am Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

I am accompanied today by Mr. James Douglas, my deputy, and Mr. James Czerwonky, who is head of our budget office.

I want to thank you for this opportunity to discuss the President's fiscal year 1990 budget request for the National Marine Fisheries Service. The 1990 budget which you have before you is one which was submitted by former President Reagan on January 9th, 1989. As you know, however, on February 9th, 1989, President Bush announced his budget plan, which included recommendations for specific new initiatives and a residual freeze category. The NMFS budget falls into the residual freeze category, and, for the purpose of starting the budget process with the Congress, the Reagan budget proposals for NMFS should be treated as if they are Bush Administration proposals.

Our shared dilemma, Mr. Chairman, is how to fulfill the intent of the legislative and policy mandates within a tightened level of overall Federal spending. Solving this dilemma will require us to examine new ways to protect, conserve, manage and develop this Nation's living marine resources.

The principal task of NOAA fisheries is to manage the fishery resources in our exclusive economic zone. I have asked the Regional Fishery Management Councils and our Regional Directors to report to me on the current overall status of our Nation's fisheries stocks. When that study is completed—and I expect it will be done within the next two weeks—I will be happy to provide a copy to any members of the subcommittee wishing to receive one. The report should serve to see how far we have come in achieving the goals of the Magnuson Act, and we have made some noteworthy strides. It will also indicate how far we have to go, and we have, in many areas, a considerable way to go.

In preparing the budget proposal for fiscal year 1990, we look to assure the continued and abundant availability of the fish in the exclusive economic zone, and the quality and wholesomeness of seafood derived from those fish.

Instead of independently performing some activities, more cooperative joint efforts with other Federal, state, and international agencies should be undertaken to reduce Federal program implementation and overhead costs. For example, during the past year we have concluded several cooperative agreements with states and academia on the shared use of and funding for maintenance of several of our research laboratories. We are working with the Corps of Engineers on a pilot program to evaluate ways to create new wetlands habitat and restore productivity to previously damaged wetlands.

Recent media interest in wetlands destruction, estuarine and river pollution, ocean dumping, fish and marine mammal diseases, and medical wastes, has focused on the safety of seafood for human consumption and has increased public concern about the health of our coastal waters and the fish in those waters.

The NOAA budget for fiscal year 1990 contains a request for additional funding in excess of $12 million to support a major coastal ocean initiative to respond to these concerns.

This coastal ocean initiative will enhance the agency's capability to understand, characterize, monitor and predict changes in the coastal ocean. It will also help us address important seafood quality issues related to habitat concerns. NOAA Fisheries has mission responsibilities and expertise which will make us a significant participant in this initiative if it is approved by the Congress.

NOAA Fisheries is currently conducting a seafood inspection systems improvement study under a Congressional mandate which may lead, ultimately, to a mandatory user-fee supported program.

For fiscal year 1990 we are requesting a total of something in excess of $103 million for NOAA Fisheries to help meet the Gramm-Rudman-Hollings deficit reduction target and to enable us to conduct the activities essential to meeting our statutory mandates. To this end, our budget request places highest priority on information acquisition and analysis activities that are essential to make responsible conservation and management decisions. Approximately 70 percent of the requested funds are for information collection and analysis. The major second element of our budget request is focused on support for fisheries and protected species conservation and management operations, and associated enforcement activities. Approximately 26 percent of our budget request is related to management operations. The remainder of the program addresses seafood and safety concerns.

Explanatory Note: The 1990 request for NOAA, NMFS totaled $141,408,000, of which 41,992,000 is a later transmittal dependent upon Congressional enactment of a marine fishing fee.

We have continued our work to identify alternative funding mechanisms to reduce or offset Federal fisheries conservation and management costs.

H.R. 5580, introduced at the request of the Administration during the last session of the Congress, as the Exclusive Economic Zone Revenue-Raising Act of 1988, would have generated approximately $67 million to offset the cost of our Federal fisheries programs. That bill set the stage for what we hope will be serious deliberations on the fishing license proposal by Congress this year. What is needed now is a wide-ranging debate on the details of our user-fee legislation that provides an approach that will be fair to all people who have to pay the fee. We plan to resubmit the proposal to Congress to set the stage for that debate, and subsequent enactment of appropriate legislation. Formal submission of an additional $42 million for NOAA fisheries fiscal year 1990 budget has been made contingent upon enactment of satisfactory user-fee legislation. That $42 million contains items that are absolutely essential for workable programs that respond to the responsibilities necessary to conserve our living marine resources in the Exclusive Economic Zone.

The request which is proposed for later transmittal, contingent upon enactment of the Administration's Exclusive Economic Zone Revenue Assurance Act of 1989 which would implement the marine fishing user-fee program, contains several high-priority areas which I would like to briefly highlight before I conclude, Mr. Chairman.

The first is the Marine Mammal Protection Act Amendment implementation. The recent Marine Mammal Protection Act Amendments require NOAA Fisheries to establish and maintain an information management system to provide estimates on the levels of interaction of various fisheries and marine mammals, and to develop and implement an observer program. That observer program is required, by law, to include 100-percent coverage of tuna vessels in the Eastern tropical Pacific.

These amendments also require us to establish a system for issuing exemptions to vessels that operate in a fishery that has taken marine mammals, and to conduct an education, information and verification program.

We have suspected that foreign fishing in the international zone, in the Bering Sea, surrounded by the Exclusive Economic Zone of the United States and the Soviet Union, is, to some extent, affecting our pollock stocks in the area.

In addition, there is the fear that several of these vessels have been poaching in the U.S. Exclusive Economic Zone using the sanctuary of the so-called donut hole in the Bering Sea.

We need more information about these stocks so that we can effectively manage our resources and support the U.S. position in future international negotiations regarding these stocks.

Another element of the proposal that will be forthcoming would permit NOAA Fisheries to upgrade the agency's present information support system.

A major element of NOAA Fisheries' mission is the timely dissemination of data and information products to the Regional Fishery Management Councils, Interstate Marine Commissions, and Federal and state agencies that are concerned with fishery resources conservation and utilization.

A 3-year capital investment program will be proposed to replace and modernize the present system. The existing system is obsolete, unreliable, and is becoming increasingly uneconomical to operate and maintain.

It is, quite frankly, incapable of handling the constantly increasing volume of data, and is unable to provide data, products and services to users in a timely fashion.

A related fishery information initiative will provide base program support for the Pacific fishery information network. This is a coordinated effort for the assembling of catch-effort data to support fishery management plans involving all of the Pacific coast states, Regional Councils, and NOAA Fisheries.

We also would propose to increase our funding of enforcement efforts substantially. The number of fishery laws and regulations that we are responsible for has increased dramatically over the past several years.

This program will provide the additional enforcement agents and inspectors to assist in the enforcement of regulations and to encourage compliance with fishery management goals.

Enforcement is essential for maintaining a credible Federal fishery management program.

And finally, the package would also contain funding for the administration of the proposed fishing-fee license system, including positions for auditing payment records and managing the program.

We now face significant new challenges in the area of fisheries and protected species resources and habitat. We can meet these significant challenges by applying our best knowledge in the areas of fishery management, protected species management and habitat conservation.

We have asked, as we have in the past, for a level of about $100 million for NMFS for fiscal year 1990. In addition to that is funding for the NOAA coastal ocean initiative, an additional $12.4 million package, and the $42 million fisheries package that we plan to submit on passage of the user fee legislation.

We are looking forward to working with you, Mr. Chairman, and other members of the subcommittee, to achieve our national goals for our living marine resources during this session of the Congress. Thank you.

[The statement of Mr. Brennan can be found at the end of the hearing.]

Mr. STUDDS. Thank you, Mr. Brennan. I do not, frankly, envy your responsibility to defend this budget presentation.

I had never heard the phrase residual freeze. I thought the President was elected on a promise for a flexible freeze. I rather doubt, don't you, that he could have been elected had he promised the American people a residual freeze?

Mr. BRENNAN. I do not think that would have affected his chances, Mr. Chairman.

Mr. STUDDS. I do not know, but whether it is residual or flexible, your interpretation of it is breathtaking. You are asking for a 41 percent cut. What is that, down to levels of superconductivity? What kind of a freeze is that?

Mr. BRENNAN. That is a very deep freeze.

Mr. STUDDS. Yes. A 41 percent cut from the current year, not counting for inflation. That is your idea of a residual freeze?

Mr. BRENNAN. Well, Mr. Chairman, I think that this is a starting point. As I indicated in my testimony, this is the base point from which we commence the discussion with the Congress.

We have the $42 million contingency package which would bring us back essentially to the area where we are operating now.

Mr. STUDDS. That is not even true. You are at $167 million plus at the moment.

Mr. BRENNAN. Yes, sir.

Mr. STUDDS. You are asking for 99. Add 42 to that, I get 136. What do you get?

Mr. BRENNAN. Well, your arithmetic is doubtlessly flawless, Mr. Chairman, but there is in that package about $25 million to $30 million worth of pass-through money, that really is not part of the programs we consider essential.

Mr. STUDDS. Would you mind putting that into English.

Mr. BRENNAN. Yes, sir. We have proposed to take out the $30 million, approximately, that comes to the National Marine Fisheries Service, and then is transferred to states, or to grantees, more or less as pass-through monies which are not part of our ongoing program, but are mandated by the Congress.

These we feel are the funds that are certainly not essential, even in the enhanced $42 million program. You add those to what we would have with the $99 million plus 42, and I think you come pretty close to what we are talking about today.

Mr. STUDDS. Nice work. I guess the new breeze has not reached the coast yet, has it? It is somewhere inland where it is very, very cold.

The staff wants me to ask you if you are sneaking up a name change on us here. I understand the way you answer your phones has changed.

Mr. BRENNAN. Yes, sir.

Mr. STUDDS. What is going on? You used to be the National Marine Fisheries Service. Now you are NOAA Fisheries?

Mr. BRENNAN. No. We are still National Marine Fisheries Service. I sent a note out to our people asking if they would use interchangeably with National Marine Fisheries Service, the words NOAA Fisheries, in an attempt to give NOAA some recognition and be associated with a first-class organization like National Marine Fisheries Service.

Mr. STUDDS. It has got nothing to do with the cynical fisherman who suggested that NMFS should stand for No More Fishery Service, and you have dropped the Service?

Mr. BRENNAN. No, sir.

Mr. STUDDS. No. You did not do it to confuse OMB, or anything?

Mr. BRENNAN. It did not work, if that was our plan.

Mr. STUDDS. Right. Well, I guess the bottom line is the bottom line. You have got a current budget of $167 million and you are asking for $99.4 million. I guess that tells us all we need to know about the priorities of this Administration.

You tell us this is to be treated as the Bush Administration budget?

Mr. BRENNAN. Yes, sir. I understand that that is the decision.

Mr. STUDDS. I am sorry to hear that. Let me ask you something. I am looking at NOAA's budget. In the major categories—National Ocean Service, National Marine Fisheries Service, Oceanic Atmospheric Research, National Weather Service, National Environmental Satellite Data Information Services, and Program Support—those are the six major budget categories I am looking at. With two exceptions they all incur enormous reductions.

Unfortunately, and needless to say, you are not one of the exceptions. The only two exceptions that do not have huge reductions are the Weather Service, which actually goes up a little bit—thank God—and something called Program Support which essentially stays the same.

Now with whatever Program Support is staying the same, and with you taking a 41 percent cut, for the first time I believe in the history of the agency, Program Support is funded substantially more than the National Marine Fisheries Service in its entirety.

What is Program Support? Is that your car and driver, or what?

Mr. BRENNAN. Excuse me. I do not have a car and driver.

Mr. STUDDS. I did not mean to upset you. What is Program Support, and why is it so much more important than you?

Mr. BRENNAN. Jim.

Mr. CZERWONKY. Mr. Chairman, let me try to answer and then provide perhaps a more detailed response for the record. Program Support deals with the elements that handle the administration and operation of NOAA as an organization. It would include some operations in our marine affairs, our aircraft operations, our executive administration and direction.

Mr. STUDDS. Why do you need more of them if you are cutting back on everything else that you do?

Mr. BRENNAN. I have not seen the chart that you have there in front of you, Mr. Chairman, but I believe it is a fairly level funded——

Mr. STUDDS. It is level funded but nothing else is. Everything else is down, with one exception. Why do you need those people at the same level?

Mr. CZERWONKY. Well, I think that is a response that I would prefer to provide for the record, Mr. Chairman.

Mr. STUDDS. Oh. OK.

[The information of Mr. Czerwonky follows:]

NOAA's Program Support activity consists of four sub-activities which provide across-the-board services to all NOAA elements and programs through policy, administrative and platform support functions:

ADMINISTRATION AND SERVICES

Executive Direction—Provides overall policy direction required to administer NOAA's oceanic and atmospheric programs (Offices of the Under Secretary, Assistant Secretary, Chief Scientist and associated staffs for Congressional and Public Affairs, General Counsel and Comptroller).

Central Administrative Support—Provides personnel and procurement functions, payments and administrative services for NOAA's operations. NOAA is the host agency for the five Administrative Support Centers (ASCs) around the country that service the entire Department of Commerce in the areas of personnel, procurement, facilities and finance.

Retired Pay Commissioned Officers—Provides retirement pay for NOAA Corps officers and payments to survivors of retired officers.

FACILITIES

Facilities Maintenance—Provides maintenance funding for NOAA Fisheries laboratories around the country and, beginning in FY 1990, for NOAA's Sand Point complex in Seattle, Washington.

Facilities Consolidation—Provides funding for the consolidation of certain NOAA elements in Silver Spring, Maryland. (purchase/lease of furnishings)

MARINE SERVICES

Marine Services—Provides funding for the operation and maintenance of the NOAA fleet in support of NOAA's missions.

AIRCRAFT SERVICES

Aircraft Operations and Maintenance—Provides funding for the operation and maintenance of NOAA's fixed wing and rotary aircraft in support of NOAA's missions.

For FY 1990 the Program Support activity shows a "net" decrease of $1.914 million. This gives the appearance that the Program Support activity remains stable when compared to FY 1989. Based on program requirements, increases are proposed for major project procurement support ($.2 million, NOAA page 214) and aircraft services ($.550 million, NOAA page 234). In addition, under the Facilities line item, new funding ($3.6 million, NOAA page 216–218) is required for the Weather Service building in Silver Spring, Maryland and for maintenance of NOAA's Sand Point facility in Seattle, Washington. These increases are netted against a decrease ($6.3 million, NOAA page 225) for marine services which is based, in part, on other

NOAA program requirements in the FY 1990 request. There is no corresponding reduction in the Executive Direction and Central Administrative Support areas related to the program reductions in other NOAA activities because the relationship between the program reductions proposed and "headquarters type functions" exists at the line organization level (i.e., NMFS, NOS, OAR etc). Therefore, part of the NMFS program reductions will be realized in the NMFS headquarters.

The NOAA headquarters level is not immune to budget reductions, and, in fact, has taken actual budget reductions over the past several years through reorganization (NOAA headquarters reorganization in 1985) and other Congressional actions. The level of reductions proposed in the FY 1990 budget would not provide any immediate economies at the NOAA level. In fact, some functions would actually increase initially (personnel actions for example). Consequently, there are no reductions proposed in FY 1990 at the NOAA level as a result of reductions in line organization programs.

Mr. STUDDS. Let me ask one more thing and I will turn it over to my colleagues.

Your budget states that additional funding of $41.9 million, roughly $42, is proposed for later transmittal, contingent upon enactment of legislation imposing what you euphemistically term a marine fishing user-fee program. God knows what the acronym for that will be.

You then go ahead and list those programs which you would agree to fund if Congress enacts your proposal. Presumably only if Congress enacts whatever the hell kind of a tax or a fee that is.

You say in your testimony that this $42 million contains items that are—and I quote—"absolutely essential for workable programs that respond to the responsibilities necessary to conserve our living marine resources."

Well, if they are absolutely essential—in your words—why are you proposing not to fund them? Why are you holding them hostage? And there are less kind words than hostage, as you can imagine, for this.

One of the kindest is wishful thinking. One of the least kind is blackmail. But if they are absolutely essential, why don't you propose to fund them?

Mr. BRENNAN. Well, Mr. Chairman, they are in the contingency package, and I think we owe it to you to indicate the important programs that are above the $99 million level, and we have tried to do that.

And as I said earlier, we are talking about commencing a dialogue.

Mr. STUDDS. Well, if those programs are absolutely essential, how do you characterize the ones below the $99 million?

Mr. BRENNAN. I suppose you could say they are very essential, Mr. Chairman.

Mr. STUDDS. Very absolutely essential.

Mr. BRENNAN. Yes, sir.

Mr. STUDDS. I see. Well, as I understand, your fee proposal would raise roughly $65 million of which you propose to return only $42 million to the Service. Is that correct?

Mr. BRENNAN. No, not exactly, Mr. Chairman.

Mr. STUDDS. No?

Mr. BRENNAN. We are talking about a proposal that would generate about $67 million when it is fully operational.

But we are talking in terms, now, of fiscal year 1990. I do not think that you would have that amount generated. So what we are seeing here is an increase of $42 million, which will probably not be anywhere nearly offset by the license fees in fiscal year 1990.

Mr. STUDDS. Where does the rest of it come from?

Mr. BRENNAN. This will come from general receipts of the Treasury, I presume.

Mr. STUDDS. Then why isn't it in your budget?

Mr. BRENNAN. Because it is contingent upon passage of the license bill, Mr. Chairman.

Mr. STUDDS. I see. So it is a little less than absolutely essential. It is only essential if the Congress decides that your idea for a saltwater fishing tax is a sound one. Otherwise, it is not essential. Is that how we are supposed to read that?

Mr. BRENNAN. No. I think the testimony stands. We have a new responsibility for the Marine Mammal Protection Act which we frankly are unfunded for right now, and in order to carry out that mandate we are going to have to have some money. So it is absolutely essential.

Mr. STUDDS. We will come back to how essential it is.

The gentlelady from Washington.

Mrs. UNSOELD. Thank you, Mr. Chairman.

I will try my previous question on you. Perhaps you are the better witness.

Under the Mitchell Act there is a Federal requirement to mitigate some of the damage to fish runs related to hydroelectric power, and through BPA, the people who live in the Northwest are already contributing quite a bit that is being used for that effect.

It appears to me that the Federal share is being dropped. Would you please comment, or elaborate, or give some rationale for this.

Mr. BRENNAN. Yes, ma'am. We would propose to drop the Federal share to zero and increase BPA's share on the basis that what these hatcheries are about is mitigation for damages caused to fishery runs by these dams that generate hydropower. The people that benefit from that hydropower are the users, of course, of electricity in the Pacific Northwest.

The suggestion is that these costs should be made to reflect the realistic value of the services, which should include the full cost of mitigating the effect on the fishery resources, particularly the salmon resources.

Mrs. UNSOELD. Is the Mitchell Act being repealed by administrative fiat?

Mr. BRENNAN. Excuse me?

Mrs. UNSOELD. Is the Mitchell Act, this portion of it, being repealed by administrative fiat?

Mr. BRENNAN. No, ma'am.

Mrs. UNSOELD. Isn't it still the law?

Mr. BRENNAN. The Mitchell Act is a law, and we are recommending to this body that it is not necessary to be funded by Federal funds but to leave that to the users.

Mrs. UNSOELD. Even though it is the law?

Mr. BRENNAN. Excuse me? Yes. We would of course propose follow-up legislation that would amend the law correspondingly. It is our position, though, that it is a policy matter that the burden of enhancing the stocks should fall on the users of the power that is generated by the dams.

Mrs. UNSOELD. Now I have not heard the word used, but isn't the marine fishing user fee a tax?

Mr. BRENNAN. Well, I would like to think of it as a user fee, as a fee that people who are benefiting from the conservation and management expenditures of the Federal Government pay in order to make sure that those conservation and management efforts continue, and that they have the resources available for the future.

Mrs. UNSOELD. It is a revenue generator?

Mr. BRENNAN. It does generate revenue, yes.

Mrs. UNSOELD. And do we generate revenue in any way other than taxes?

Mr. BRENNAN. Well, I think a user fee is an appropriate way to generate revenue. It is just not a tax.

Mrs. UNSOELD. It is not a tax?

Mr. BRENNAN. A user fee is based on the concept that those that benefit will pay. It is not a tax imposed across the Nation on all citizens of the United States and extracted from——

Mrs. UNSOELD. Is not the philosophy behind our whole tax system that we all pay and we all benefit?

Mr. BRENNAN. Well, if you go down by the IRS, they have engraved in stone that the tax system is the price that we pay for a civilized government. I think somebody is credited with saying that. I think maybe Oliver Wendell Holmes. Yes, but that is an area where you do not trace the benefits directly, each individual benefit to a particular citizen.

In this case it is easy to identify particular benefits to a particular user group.

Mrs. UNSOELD. So the sports fishermen who come from other parts of the country are receiving a benefit without paying?

Mr. BRENNAN. Well, under our proposal they would pay $20, just like the citizens that live right on the coast.

Mrs. UNSOELD. All right. Finally, what percentage would actually be used under your tax to go back into fisheries program, and how much is going to be used for something else?

Mr. BRENNAN. I think that, as I said, there should be a debate and a discussion about this.

A couple of years ago, it was generally thought to be laughable that we would be proposing such a user fee. I think the fishermen believe now that there ought to be some user fee, and I think that they are willing to support it.

Some of the questions implied in your suggestion is how much of the money comes back, how can we be assured that this money is available back to the users. Because if it is a user fee, the users ought to benefit from the fee.

Those are questions that I think should be addressed in this debate and seriously considered, and I hope that we can reach a resolution on that.

And it certainly is within the realm of possibility that there could be a mechanism devised to make it a 100 percent return to the resource.

Mrs. UNSOELD. Now the Marine Mammal Program, Bering Sea pollack research, PACFIN [phonetic], the Regional Fishery Councils—all of those are of benefit to more than just those who would be paying your tax, are they not?

Mr. BRENNAN. I think the people that benefit most directly are the people that use the resource, either as recreational fishermen or commercial fishermen, but I would also admit, quite candidly, that there is some aspect of having healthy natural resources which benefits all the citizens of the country.

Mrs. UNSOELD. What would be the contingency plan, then, if only the users are unwilling to be the support of this? What would be your alternatives to how these programs could be funded?

Mr. BRENNAN. Well, I am talking here about a plan that will generate $67 million. We certainly could not operate the National Marine Fisheries Service under a plan that would only have $67 million, at least not the National Marine Fisheries Service that we have today.

So even if we have the users providing some money, it would probably be much less than half of what we are spending on these resources.

Mrs. UNSOELD. So your contingency plan is to further drop some of the programs, or portions of them?

Mr. BRENNAN. No. Our contingency plan is in fact to increase them by $42 million, just with the passage of the Marine License Act, without the generation of any revenue from the Marine License Act.

What I think your question implies is something that some of the fishermen have been concerned about, and that is—they have told me: We would gladly pay this fee if we could be assured, somehow, that it will be directed toward fishery management, and that it will not be used just to offset other portions of the deficit.

And that is frankly what I was talking about. When we talk in terms of a debate in the Congress, I think that is the type of thing that should be addressed. We are open to suggestions on that.

Mrs. UNSOELD. Granted, it is another agency but that is what some of the fishermen see happening with the Wallop-Breaux fund, is it not? It is being taken away after they gave it for that purpose?

Mr. BRENNAN. I understand that.

Mr. STUDDS. The gentleman from North Carolina.

Mr. COBLE. Thank you, Mr. Chairman.

Mr. Brennan, this town, probably unlike any place on Earth, does not relate to reduced spending. If you propose to reduce spending many people are going to look at you as if you are some half-crazed freak who needs to be psychiatrically evaluated.

Now I, for one, welcome it. Now I do not want your agency nor any other agency to be emasculated, but I think probably every Federal agency could cut back substantially and nobody would miss a step.

People say, oh, you cannot cut back because we are going to have to discontinue services. Well, that assumes that all services are necessary.

So I, for one, will welcome a reduced reduction here if it can be done, as I say, without emasculating or putting you all in a bind from which you cannot recover.

So I sort of find it, Mr. Chairman, a breath of fresh air and welcome it. Thank you, sir.

Mr. BRENNAN. Thank you.

Mr. STUDDS. The gentleman from New York.

Mr. **Hochbrueckner**. Thank you, Mr. Chairman.

I certainly appreciate the bind that you fellows find yourselves in. I mean, obviously you are here, carrying the party line. You are in a situation where you have to defend cutting $168 billion budget down to $99 billion and make it sound like it is sensible.

Now we know, and you know that this cannot happen, and it is not going to happen because we are not going to let it happen.

Some of the programs that you are calling for wiping out just do not make sense. I understand the predicament you are in. So I am not really going to ask you a question.

I am just going to make a couple statements and leave it at that because there are no answers that you can provide. You obviously have a very difficult position to carry and it is not going to carry. Nevertheless, you have to be here today because it is required that you present yourself and explain some of the things that we see before us that we find to be very bad news.

Your response that fishermen would be willing to pay a $20 fee in order to have a salt-water license—in order to have the money for programs that have been supported by the general taxpayers' money—just is not going to fly.

Historically, we have opposed salt-water fishing fees. No matter how you want to state it, this is not a tax but a surcharge, or what have you, the fact is it is a violation of George Bush's "Read my lips." It really is, and we understand it that way.

And the fishermen understand it that way, and there is no way they are going to say, 'Yes, we will be happy to pay 20 bucks a year in order to have the right to have programs that were previously paid for by everybody in this Nation.'

And that is just not going to happen, and it is sort of amusing to see you scramble, to try and give us an answer that is palatable.

You have a problem; we understand it. You are here. You have to take the heat, we accept that, and obviously, those of us who enjoy giving heat will take the enjoyment.

I do not happen to enjoy it. I do want to state, though, that many of the things that are in this budget are absolutely insane, and there is no way we are going to let them happen.

For example, as I had pointed out to the previous panel, we see a tremendous loss in fishery revenue on Long Island in the New York area, because when you have pictures in the newspaper of syringes stuck in the side of fish, that is very definitely a turn-off in terms of people buying fish, for obvious reasons.

And so, when I look at the budget and I see, for example, that you are putting in $100,000 for a striped bass fish-tagging program but yet wiping out a couple million dollars associated with the same fishery, that does not make sense to me—to wipe out $500,000 associated with the research on striped bass fishery. I mean, we all agree we have to restore the striped bass fishery.

Now there are little fights going on between, you know, where does all the fish come from? Is it Chesapeake stock? Is it Hudson stock? And should New Yorkers have the right to fish Hudson stock?

Should New Jersey people have the same right? We will fight those battles as time goes on here, during the course of the year.

But the point is, programs like this, in terms of the seafood safety, to wipe out 86 positions to save $4.4 million in product quality and safety research, is just totally unacceptable.

And I notice even if you had your contingency fee—you do not put the money back in anyway—so, you know, these are programs that, really, we cannot let be undone.

Today is an amusing day in terms of presentation. I certainly would not want to be in your shoes. Nevertheless, I just wanted to make that statement, that this process is crazy. I appreciate the unfortunate position you are in , but if we do it right, hopefully you will have the money and you will be able to carry on these programs as we all know you must.

So with that, I thank you. You do not have to respond, because there is no response you can make that would satisfy me, other than to say, "We really do want these programs and we hope you can come up with the money to fund them." And we will come up with the money.

Thank you, Mr. Chairman.

Mr. STUDDS. A strong letter follows. The gentleman from New Jersey.

Mr. PALLONE. Thank you, Mr. Chairman.

I guess my colleague from New York set the tone for me by explaining to me that you do not necessarily believe what you have to say, what you are putting forth today, and that kind of makes me feel better about you, Mr. Brennan, and the others that are in this position.

But, I have a lot of sports fishermen as well as commercial fishermen in my Congressional district, and I have never met anyone in that category who said to me that they support the salt-water fishing license.

So I do not know who these fishermen are who were telling you that they support it. There might be some, but I do not know of any.

The other thing I was going to say is that President Bush specifically came into my Congressional district in October and said that he was totally and unalterably opposed to a salt-water fishing license. That was front-page news in every one of the New Jersey papers.

My understanding was that we are to assume, now, that what is being presented here is supported by the Administration.

Does that include the fishing license?

Mr. BRENNAN. Yes, Mr. Pallone. In fact President Bush, on the campaign trail, stated at three different occasions that he was opposed to the fishery license.

But perhaps, without being blasphemous, you can recall that Peter denied Christ three times, but then went out and became an advocate for Christianity throughout the world. I mean, there is hope for President Bush.

Mr. PALLONE. But let me ask again. It is part of the Administration's proposal that we have the salt-water fishing license?

Mr. BRENNAN. Yes. As I understand, we have specifically asked the OMB, and the position is that this is part of the Administration's proposal.

Mr. **Pallone**. I find that hard to believe, but, again, you know, I am new, so maybe—as you say—things change.

The other thing that Congresswoman Unsoeld was basically pointing out, but I just want to repeat it again to show my concern, is that when you talked about this license and then you give us kind of a breakdown at the end about what types of things would be done with the fees, that upsets me even more.

I mean, the bottom line is that if sports fishermen are paying, then most of the programs that would be paid with the money that comes from the license presumably would be related to sports fishing.

And when I go down that list—not that I have a problem with the programs that you do want to pay for, because I think they are valid programs—but clearly, they are not directly, or, at least, most of them are not directly related to sports fishing.

And you see, that is part of the problem here. On the one hand, people are opposed to any new user fees at all. Generally that is true. But, on the other hand, if they are being presented with options or proposals as to how the money is going to be spent, and it does not directly relate, then there is no justification for it.

Mr. **Brennan**. Well, let me just, first of all, say two things about that.

The program would generate $67 million, $33.5 million from commercial fishermen and $33.5 million from recreational fishermen.

This portion that you see in our budget package is not based on what we propose to do with these license fees. This is an add-on with appropriated funds to the fiscal year 1990 budget on the assumption that there will be in the future a Federal fishing license.

A part of the debate—and I think you are absolutely right—the recreational fishermen are concerned that we do things about recreational fisheries with the money that we collect from recreational fishermen. That may be a point for discussion, about how that can be worked out.

I would also point out that there is a great deal of commonality of interest between the recreational and the commercial fishermen when it comes to things like habitat.

Habitat affects fisheries, whether it is recreational or commercial. Much of the data that we collect, for example, on the swordfish fishery or a commercial fishery, are useful to recreational fishermen.

Mr. **Pallone**. I realize that, but I am a little confused about what you just said. You said that these programs at $40 million, or so, would only be put into effect if the salt-water fishing license went into effect. But, at the same time, you do not link them directly to that. I do not understand what you are saying.

Mr. **Brennan**. What I am saying——

Mr. **Pallone**. I thought they were linked directly.

Mr. **Brennan**. They are linked, but the revenue that would be generated in fiscal year 1990 from the license bill would not—it would not be $67 million. There would be a start-up.

Mr. **Pallone**. In other words, because of the start-up you would not have that kind of money available?

Mr. **Brennan**. Yes. We would probably be looking at maybe—depending on when enacted—probably $15 million to $20 million.

Mr. PALLONE. But the point is we can envision that this is how you would spend the money if it were available, and that is the problem I have.

Mr. BRENNAN. No; no. Let me be clear on this. I said it, and I have the Administration's blessing to say this. We want to start a debate about exactly how this license would be configured. That means fees, how you would extract the fees and how you would use the fees.

We talk about safeguards for commercial versus recreational, et cetera. Whatever is on people's minds would be discussed, and we are talking about the commencement of a debate, not an Administration bill that we feel has to be adopted in the manner submitted.

Mr. PALLONE. Just let me ask this. Again, I think there was mention of these grant programs; the anadromous fish grant program, interjurisdictional fisheries grant program, and there is absolutely no money in the budget, from what I can see, for any of these, including the striped bass research.

Mr. BRENNAN. That is correct.

Mr. PALLONE. Why were those programs eliminated as opposed to some of the other things? And those seem to be particularly important, grant programs to the states. I mean, these are the types of things that I know in New Jersey, for example, how a lot of those funds are used.

Mr. BRENNAN. I do not want to appear to be begging off on that, but these are responsibilities of the state. The Administration's position is that the state should be funding them.

There are mechanisms, for example, under Wallop-Breaux to fund some of these things; there could be some funding from Wallop-Breaux; I do not want to get into the Department of Interior's responsibility.

But I think the Administration's position is that these pass-through funds to the states are better left to the states to support.

Mr. PALLONE. I just wanted to ask one more thing.

In your statement you mentioned there was an additional $12.4 million for a major coastal ocean initiative.

Mr. BRENNAN. Yes.

Mr. PALLONE. And then you mentioned that that would help address important seafood quality issues.

Now again, the commercial fishermen in my area, in New Jersey as a whole I suppose, are very concerned about all the negative publicity and what has been happening with regard to sales.

And I assumed, when I read that, that this meant that we would be spending more money with regard to seafood safety inspection, and yet, at the same time, I see that in fact that is not the case. The program that you have, the seafood inspection program, funding for that is proposed to be eliminated.

You know, the statements are inconsistent.

Mr. BRENNAN. Let me see if I can help you on that.

When I talk about the $12 million on the coastal ocean initiative, much of what we are talking about is coastal pollution and the effects of that coastal pollution on the living marine resources.

That $12.4 million would be dedicated to research and understanding the fundamental processes at work here, and how they affect the quality of the water and the quality of the fish taken from the water.

They would not be, in fact, specifically directly related to fisheries inspection. Now the other thing about fisheries inspection—and I think maybe I should stress this a little bit—is that the fisheries inspection program that we run is a good example of a user-fee program that works very well.

We have inspectors who will, for a fee, provide inspection in a plant, continuous inspection. We will inspect to whatever standards the contractor wishes us to use.

People who wish to sell to the Department of Defense or to school lunch programs have to have inspected product.

People who wish to sell overseas and wish to carry the Federal shield, packed under Federal inspection, sometimes feel that gives them an advantage in selling in other countries.

It also gives them an advantage, sometimes, in selling domestically.

The upshot of it is that about 11 percent of the fishery product packed in the United States is in fact packed under Federal inspection, and that program is paid for entirely by the people who ask the Federal Government to do the inspection.

Mr. PALLONE. The problem I have, though—and this is my last comment.

Mr. STUDDS. Yes; it is.

Mr. PALLONE. On the one hand you give the impression that through this coastal initiative we are going to have major research done with regard to seafood quality, but, at the same time, if we cut out of the budget the seafood inspection initiative, and some of these other programs that relate to that, you are eliminating some of the concerns that consumers might have.

And so I think those two things are inconsistent.

Mr. BRENNAN. I think you are raising, frankly, another issue, and that is what should be done about seafood inspection. I think this is going to be an issue that will be before you again, probably, before this session is over.

And just let me say this about inspection. We are talking about a different product than chicken raised in pens. We are talking about wild animals that are harvested by a large number of harvesters roving around the sea. You have to look at what happens when it is on the harvesting vessel.

You have to know what is in the water that it was harvested from, and how those fish are treated when they get back. It is not until you actually get back to land and are in a processing plant that you have situations analogous to other types of meat and poultry or animal protein.

So I think what you have here is a situation that you are going to be looking for an agency with unique expertise. I submit that the National Marine Fisheries Service has the expertise with fisheries management and with its inspection program, et cetera. We will certainly be willing to cooperate and work with you on how we should reach some sort of program that will satisfy the consumers that the fish that is on their dinner table is in fact wholesome and of good quality.

Fish has many health benefits, as you are aware. It also commands a premium price in the marketplace on a per pound basis. If you go look in the supermarket you would see that. So the consumers have a right to expect good quality for the price they pay. I think it is to the industry's best benefit, in the long-run, to make sure that they have that assurance. It is going to cost money.

Mr. STUDDS. Let me just ask this, if I may. You are under a 3-year Congressional mandate to conduct just such a study, as you acknowledge in your testimony.

I note that you have not asked for any money for that study in fiscal 1990. When can we expect that to be finished?

Mr. BRENNAN. I think we will have an interim report this summer, and we will have it completed in fiscal year 1990. June of 1990.

Mr. STUDDS. June of——

Mr. BRENNAN. 1990.

Mr. STUDDS. [continuing] 1990. So it will only be a year late?

Mr. BRENNAN. Yes. It will be exactly a year late. We started a year late and we are going to end up a year late. But it is a very rigorous study, Mr. Chairman. It has engaged 16 or 17 sectors of the industry, and I think will be the definitive study on fish inspection.

Mr. STUDDS. Let me say to the new members of the subcommittee whose first hearing this is, that as you wrestle with the contradictions and inconsistencies of these budget proposals, your outrage will continue over the years but your incredulity will fade. You get used to it after a while.

Let me just say that you may be in very serious trouble, because if you continue with Biblical and literary allusions, you may so endear yourself to this Committee you may get your budget doubled, in which case you will never explain yourself back wherever it is that you are housed these days.

Mr. BRENNAN. I will be careful of that, Mr. Chairman.

Mr. STUDDS. No one ever suggested before, to my knowledge, that the Bush campaign was run by St. Peter.

[Laughter.]

Mr. STUDDS. And some of the Minority staff have pointed out that Peter was a fisherman, and therefore is a most unlikely source for this kind of a recommendation.

I do not know whether—was Mr. Bush on the road to Hackensack or Damascus when this happened?

[Laughter.]

Mr. STUDDS. We will try to see if we can find that out.

After all these marginal and peripheral questions, let me get to one of overriding national policy significance.

Are you going to fix the pier at the Northeast Fishery Center in Woods Hole before it falls into the harbor? Or after?

Mr. BRENNAN. I know what you are talking about.

Mr. STUDDS. I know you know.

Mr. BRENNAN. We have a serious problem. We had hoped that perhaps Woods Hole Institute would forego some of its internal decorating and give us some of that money to replace the bulkhead, but that did not happen.

[Pause.]

Mr. BRENNAN. We have provided this year some $350,000 to make sure that it is not an imminent health hazard or a safety hazard. But, frankly, that is a serious problem and it is going to cost $2 million to fix, as I understand it now, and as erosion continues it is going to be even worse.

Mr. STUDDS. We are dealing with higher powers than those that reside in Washington, as you know. Tides and waves, and natural forces. You are aware of that?

Mr. BRENNAN. Yes.

Mr. STUDDS. You promise to fix it before it falls in?

Mr. BRENNAN. Well, I will hope that no one gets hurt when it falls in, Mr. Chairman.

Mr. STUDDS. It would be a very dubious method of saving money simply to lose one of your fishery centers.

Mr. BRENNAN. I agree.

Mr. STUDDS. Be aware of the fact that this entire Committee, I feel sure in telling you, will be watching with baited breath—God help us—to see what happens there.

I want to thank you. You have done the best you could, as you always do, with an impossible task, and we appreciate it.

I understand that you have, at some sacrifice to your own traveling health, sat through this lengthy session. I appreciate that and I apologize for it.

Mr. BRENNAN. Thank you, Mr. Chairman.

Mr. STUDDS. I hope you are in a very good frequent flier program.

The committee stands adjourned.

[Whereupon, at 12:49 p.m., the subcommittee was adjourned, subject to the call of the Chair.]

[The following was submitted for the record.]

ONE HUNDRED FIRST CONGRESS

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U.S. House of Representatives
Committee on
Merchant Marine and Fisheries
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MINORITY CHIEF COUNSEL
DUNCAN C. SMITH III

February 17, 1989

BACKGROUND MEMORANDUM

TO: Members, Subcommittee on Fisheries and Wildlife Conservation and the Environment

FROM: Subcommittee Staff

SUBJECT: Hearing on the fiscal year 1990 budget of the U.S. Fish and Wildlife Service and the National Marine Fisheries Service

On Wednesday, February 22, 1989, at 10:00 a.m. in room 1334 of the Longworth House Office Building, the Subcommittee on Fisheries and Wildlife Conservation and the Environment will conduct a hearing on the proposed fiscal year 1990 budget for the U.S. Fish and Wildlife Service and the National Marine Fisheries Service. The witnesses will be Mr. Frank Dunkle, Director of the Fish and Wildlife Service and Mr. James Brennan, Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration.

PART I

U.S. FISH AND WILDLIFE SERVICE

This part provides an overview of the proposed 1990 budget for the U.S. Fish and Wildlife Service, along with a brief discussion of the major budget issues and a chart depicting the FY 89 appropriation and the Administration's FY 90 proposal.[1]

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[1] The Bush Administration has not yet proposed specific changes to the 1990 Fish and Wildlife Service budget submitted by the previous Administration.

The Administration's FY 90 request of $606 million for the Fish and Wildlife Service is $205 million below the FY 89 appropriated level of $811 million. The largest proposed cuts are in the areas of grants-to-states for sport fish and wildlife restoration (-$109M), land acquisition (-$56M), and construction projects (-$20M).

I. RESOURCE MANAGEMENT

The Resource Management account consists of those operations of the Fish and Wildlife Service funded by annual appropriations and represents the bulk of Service operations. It is broken down into the following four categories.

A. Fish and Wildlife Enhancement

This category consists of: (a) the Endangered Species Program, which seeks to identify endangered species, and to conduct research, protection and recovery programs, that will restore those species to non-threatened status; (b) the Ecological Services Program, which provides guidance on fish and wildlife conservation issues to those carrying out land or water resources development projects sponsored, licensed, or assisted by the Federal government; (c) the Environmental Contaminants Program, which seeks to evaluate the long term effects of contaminants on fish and wildlife resources; and (d) the National Wetlands Inventory Program, which was established to map the wetlands of the United States and make the information available to all levels of government and the private sector for planning purposes.

The proposed FY 90 budget request for Fish and Wildlife Enhancement is $47,456,000, $6,481,000 less than the amount appropriated in FY 89. The proposed change reflects a $7.2M decrease (a 33% reduction) in the endangered species program by terminating the grants-to-states program and reducing endangered species recovery efforts by 18%. The proposed change also reflects an increase of $1.4M to restore wetlands that have been drained for agriculture.

B. Refuges and Wildlife

This category includes the operation and maintenance of the National Wildlife Refuge System, the enforcement of Federal wildlife laws, and migratory bird management.

The proposed FY 90 budget request for this program is $143,565,000, $5,049,000 less than the amount appropriated in FY 89. This change reflects proposals to:

- decrease refuge operations and maintenance by $9M (-8%);
- provide $1M to institute a drug control program on Fish and Wildlife Service lands;
- provide $2.4M to implement the North American Waterfowl Management Plan, which was developed to increase protection of waterfowl habitat in the United States and Canada; and
- provide $1.3M for wetland restoration and management for waterfowl and other wildlife.

C. Fisheries

This category includes fish hatchery operations and maintenance, and the management of anadromous, interstate and international fishery resources.

The proposed FY 90 budget request for this program is $41,835,000, $933,000 less than the amount appropriated in FY 89. This change reflects a decrease of $1.6M in fish hatchery maintenance, an increase of $1.2M for fishery mitigation for dams on the Snake River, and a decrease of $1M reflecting the transfer of funding for several fish hatcheries to the Bureau of Indian Affairs.

D. Research and Development

This portion of the budget is designed to provide the research and development to support Fish and Wildlife Service programs. It is comprised of a system of 11 national research centers which conduct contaminants research, fishery research, wildlife research, and endangered species research; the Technical Development Program, which applies scientific research results to operational needs and activities; and the Cooperative Research Unit Program, comprised of research units at universities.

The proposed FY 90 budget request for this program is $54,544,000; $7,505,000 less than the amount appropriated in FY 89. The bulk of the decrease is in fishery research (-$3.5M) wildlife research (-$1.4M), and research on coastal wetland losses (-$1.2M).

II. CONSTRUCTION AND ANADROMOUS FISH

This account provides for the construction of facilities in support of other program areas, including construction on wildlife refuges, fish hatcheries and research facilities. It also supports grants to states under the Anadromous Fish Conservation Act.

The proposed FY 90 budget request for this account is $10,105,000; a reduction of $21,729,000 from the amount appropriated in FY 89. It would substantially reduce funding for construction on wildlife refuges and fish hatcheries and would eliminate funds for construction at research facilities. It would also terminate the Anadromous Fish grants-to-states program.

III. LAND ACQUISITION

This account provides funding from the Land and Water Conservation Fund (LWCF) for acquisition of lands to protect important fish and wildlife habitat. Lands acquired become part of the National Wildlife Refuge System.

As in past years, the Reagan Administration did not request any funding for land acquisition from this fund. Despite the lack of Administration support, Congress appropriated approximately $51,000,000 in FY 88 and approximately $58,000,000 in FY 89 for this account. President Bush has proposed to fund LWCF-financed land acquisition at the FY 89 levels. However, the allocation of the funds among the Park Service, Bureau of Land Management, Forest Service and Fish and Wildlife Service is not yet available.

IV. PERMANENTLY APPROPRIATED ACCOUNTS

The following programs receive permanently appropriated funds, and in some cases are supplemented by annual appropriations.

A. Migratory Bird Conservation Account

This account area funds land acquisition for migratory waterfowl habitat conservation. Funding comes from four sources: 1) appropriations authorized by the Wetlands Loan Act of October 4, 1961 (no funds requested for FY 90), 2) receipts derived from the sale of ducks stamps ($20,150,000 is anticipated), 3) refuge entrance fees ($1,190,000 is anticipated), and 4) import duties on arms and ammunition ($12,000,000 anticipated). The total of receipts anticipated for FY 90 is estimated to be $33,340,000. $29,440,000 was collected under this account in FY 89.

B. National Wildlife Refuge Fund

This fund provides payments to counties in which Fish and Wildlife Service lands are located to compensate them for the tax revenue that would have been generated if the lands had remained in private hands.

Funding for this program is derived from net revenues from the sale of grazing rights, mineral resources, timber and other products from Service lands and from direct appropriations. If net revenues are insufficient to provide full payment to counties to compensate for lost revenues, the balance is to be made up by direct appropriation.

The Administration is requesting an appropriation of $6.645,000 and estimating net receipts to be $3,590,000. The total ($10,235,000) would provide only 60.4% of the payment to counties required by the Refuge Revenue Sharing Act (16 U.S.C. 7155).

C. Sport Fish Restoration Program (Wallop-Breaux)

This program (which is referred to variously as Dingell-Johnson, Wallop-Breaux, or the Sport Fish Restoration Program) provides funding for states to carry out sport fish restoration and enhancement projects. It is funded by an excise tax on fishing tackle, a portion of the Federal tax on motorboat fuels, and import duties on fishing tackle and recreational boats. It is estimated that $193,000,000 will be collected in taxes and duties for distribution in FY 90, none of which is now subject to appropriations.

The Administration proposes in its FY 90 budget request to withhold $93M of the estimated funds collected through the import taxes and duties enumerated above. The withheld funds would be available for appropriation in the future. The purpose of the proposal is to help alleviate the budget deficit. The Administration also proposes to authorize the use of up to one percent of the funds available for apportionment for grants to Indian tribes.

D. Federal Aid in Wildlife Restoration (Pittman-Robertson)

This program provides funding for states to carry out wildlife restoration projects. It is funded by an excise tax on sporting arms and ammunition, handguns, bows and arrows. It is estimated that $129,000,000 will be collected for distribution to the states in FY 90. Like the Sport Fish Restoration account, disbursement of these receipts is not subject to annual appropriations.

The Administration proposes in its FY 90 budget request to withhold $29M of the estimated funds collected through the taxes enumerated above. The withheld funds would be available for appropriation in the future. The purpose of the proposal is to help alleviate the budget deficit.

MAJOR BUDGET ISSUES

Land Acquisition

Beginning in FY 86, the Administration has proposed a moratorium on land acquisitions for the National Wildlife Refuge System funded through the Land and Water Conservation Fund (LWCF). This moratorium proposal is carried forward into its fifth year in the FY 90 Reagan budget proposal. President Bush has indicated that he will submit land acquisition requests for the federal land management agencies, but the level of funding for the Fish and Wildlife Service has not yet been decided. Up to $900 million annually is authorized to be appropriated from the LWCF for acquisition of specified Federal lands, including endangered species critical habitat and specifically legislated additions to the National Wildlife Refuge System. The Fish and Wildlife Service has identified over $1 billion in land acquisition needs for migratory waterfowl, while over $200M in land acquisition needs have been identified in endangered species recovery plans.

$57.5 million was appropriated to the Fish and Wildlife Service for land acquisition in FY 1989. The Administration has proposed a rescission of $30M of the FY89 funds. The funds would be directed toward acquisition of the Manassas Battlefield National Park. The acquisition of that property was required legislatively by P.L. 100-647 (Technical Corrections to the Tax Reform Act of 1986).

The appropriate level of funding, the acquisition priorities for FY 90 and the proposed rescission may be discussed at the hearing.

Wallop-Breaux & Pittman-Robertson Funds

(Sport Fish Restoration & Federal Aid in Wildlife Restoration)

The Administration has proposed to cap at $100M each two permanently appropriated funds that are used to distribute federal taxes on fishing and hunting gear and fuel to the states for fish and wildlife programs. This would result in a decrease of $122M in fish and wildlife enhancement programs. The purpose of the proposal is to reduce the federal budget deficit.

Two years ago, the Administration proposed the transfer of $25M from the Wallop-Breaux fund to the Resource Management Account of the Fish and Wildlife Service. That proposal was strongly opposed by this Committee and unanimously rejected by the Appropriations Committee. Members may wish to examine whether the major increases in receipts under these programs in the past several years has been fully utilized by the state programs which are financed by them, and the merits and demerits of the Administration's proposal.

Endangered Species

Significant reductions are proposed by the Administration for the implementation of the Endangered Species Act (ESA).

A study released in January by the General Accounting Office reported that only 72 of the 482 species protected by the Endangered Species Act have shown any signs of progress toward recovery, and that at least one-third of the endangered species continue to decline toward extinction. The primary reason cited was the lack of funds for species recovery efforts. The Administration is proposing to reduce recovery funds by 18% in FY 90.

Congress last year authorized $38M for the endangered species program of the Fish and Wildlife Service and $16M for grants to the states. By comparison, the Administration has requested $14M for the Service's program and no funds for the states. The Administration's proposal represents a 33% reduction from the amount appropriated last year. Administration budget priorities may be discussed at the hearing in an effort to reconcile these priorities with GAO's findings regarding the implementation of the ESA.

National Wildlife Refuge Fund

The Refuge Revenue Sharing Act requires the Fish and Wildlife Service to reimburse counties on which National Wildlife Refuges or National Fish Hatcheries are located to compensate the counties for the loss or reduction of real property tax revenues resulting from the existence of the refuges or hatcheries. The Administration's FY 90 budget request for payments to counties under this program provides only 60% of the funds that are required to be paid to the states by law. The appropriate level of funding may be discussed at the hearing.

Migratory Birds

Species of migratory birds that are not typically hunted receive relatively little management attention in the Fish and Wildlife Service. The Fish and Wildlife Service has statutory responsibility to conserve and protect all migratory birds. The Service's efforts have traditionally focused on hunted species of migratory waterfowl, which comprise approximately 7% of the species of migratory birds in the U.S. Of the $8M appropriated for migratory bird management in FY 89, only $750,000 was used specifically for migratory bird species such as shorebirds or songbirds, the so-called "non-game" species. The Administration proposes to reduce funding for these species by $250,000 in FY 1990. The focus of the research program of the Service is also heavily weighted toward the game species. In FY89 $6.7M is earmarked for research on game birds, whereas 1.9M is earmarked for non-game birds. The Administration proposes to reduce the latter by $500,000 in FY90.

The Administration is proposing to increase the Migratory Bird Management account by $3.7M in FY 90 to implement the North American Waterfowl Management Plan. That plan was developed jointly with Canada and is designed to protect waterfowl habitat in an effort to reverse the decline in waterfowl populations.

Members may wish to discuss the discrepancy in funding for game versus non-game migratory birds, and the extent to which the proposed funding increases to implement the North American Waterfowl Management will benefit species of migratory birds other than waterfowl.

Department of the Interior
U.S. Fish and Wildlife Service
Proposed FY 1990 Budget

Budget Summary (in thousands of Dollars)

APPROPRIATION ACTIVITY	1989 APPROP.	1990 ADMIN. REQUEST	INC/DEC FROM 1989 APPROP.
I. Resource Management F & W Enhancement Refuges and Wildlife Fisheries Research and Dev. General Admin.	$360,688	$342,042	-$18,646
II. Construction/ Anadromous Fish	31,834	10,105	- 21,729
III. Land Acquisition	57,529	1,874	- 55,655
IV. Migratory Bird Conservation Acct. Appropriated Funds	0	0	0
V. National Wildlife Refuge Fund	6,645	6,645	0
SUBTOTAL	456,696	360,666	- 96,030
VI. Permanently Approp. Accounts *	354,742	245,481	-109,261
TOTAL FUND	811,438	606,147	-205,291

* Includes Sport Fish Restoration Account, Federal Aid in Wildlife Account, and Permanent appropriations into the Migratory Bird Conservation Account.

PART II

NATIONAL MARINE FISHERIES SERVICE

OVERVIEW

The detailed budget recommendations for the National Marine Fisheries Service have not yet been received by the Subcommittee, nor have any modifications to it by the Bush Administration been proposed. The only information currently available to the Subcommittee on the FY 90 budget request is the very summary overview of the NMFS proposal contained in the general budget submission for the entire U.S. government.

Former President Reagan's fiscal year 1990 budget recommendations for the National Marine Fisheries Service (NMFS) propose a 41% decrease in overall funding, from $167,625 million in FY 1989 to a proposed level of $99.4 million in FY 1990.

Of the major categories comprising the NMFS budget, the President proposed to cut Information Collection and Analysis by 36% from FY 89 appropriation levels; Conservation and Management Operations by 35%; and State and Industry Programs by 77%. These reductions are similar to those proposed in each of the last four fiscal years.

In contrast, other portions of the Administration's proposed NOAA budget call for a 7% increase for the National Weather Service and a 28% decrease for the National Environmental Satellite, Data, and Information Services activity. Overall, the share of NOAA's budget for ocean and coastal programs would be about 25% while the share for the atmospheric side of NOAA would be approximately 75%.

In presenting the budget, the Administration also announced plans to transmit a legislative proposal providing for the imposition of fees on saltwater fishermen. Contingent upon enactment of the "marine fishing user fees", the Administration would seek additional $42.0 million for NOAA fisheries programs, including funds for observers to help enforce the Marine Mammal Protection Act, marine habitat research, Pacific Salmon Treaty activities, regional fisheries management councils, law enforcement and surveillance activities, Bering Sea pollock research, catch data and fisheries statistics and several other important activities.

POLICY INITIATIVES

FISHING FEES. The major policy initiative in the NMFS budget--apart from the reductions themselves--is the proposal to establish federal marine fishing user fees. The budget documents do not contain the specific proposal, but promise to transmit it in the near future. If this proposal is similar to the one proposed for fiscal year 1988, only a portion of the revenues raised would go towards funding fisheries related programs, with the remainder deposited in the general treasury.

Because he campaigned as a friend of the sport fishermen, President Bush may have different views on this issue. To date, the Subcommittee has not been informed about whether or not the new President supports the idea of licensing saltwater fishermen or raising revenues by taxing their catches.

BUDGET SUMMARY

The National Marine Fisheries Service administers a wide range of programs for conserving and managing commercial and recreational marine fisheries, protecting marine mammals and endangered marine species, collecting and analyzing information needed for fisheries management decisions, and providing assistance of various kinds to the commercial and sport fishing industries. The recent reauthorization of the Marine Mammal Protection Act requires NMFS to assume even greater responsibilities for the protection and management of marine mammals. These include a vastly expanded observer program for commercial fishing vessels, the issuance of marine mammal display and research permits, and population estimates for depleted or near depleted species of marine mammals.

Additionally, the Service operates the Northeast Fisheries Center (Woods Hole, MA), the Southeast Fisheries Center (Miami, FL), the Southwest Fisheries Center (La Jolla, CA) and the Northwest and Alaska Fisheries Center (Seattle, WA). These four centers serve as the scientific backbone for NMFS by conducting all of its essential research, data collection and analysis necessary for NMFS to fulfill its many responsibilities.

Lastly, the Agency administers several special purpose funds important to the commercial fishing industry.

To more easily understand the NMFS budget, it is useful to divide it into two areas: "activities" (the NMFS portion of the Operations, Research and Facilities (ORF) Appropriation of NOAA) and "Miscellaneous Accounts". Normally the NMFS "activity" is divided into three "subactivities", which are in turn reduced into "line items". Although the available budget information does not detail funding recommendations below the "subactivity" level, the "line items" are shown below for purposes of general information.

I. ACTIVITY: NMFS Operations, Research and Facilities (ORF)

Information Collection Analysis. This subactivity covers those NMFS programs associated with the collection, analysis and dissemination of information on the status of fishery stocks, fishery habitat, and industry information. It includes scientific surveys to collect biological and environmental data on the stocks; protected species research; prediction of fishery yields; anadromous fishery research; stock enhancement studies; fishing industry information; and data dissemination. The information generated by this category provides the basis for all NMFS decisions for managing fisheries, protecting endangered species and participating in other federal decisions that may affect the living resources under NMFS responsibility.

LINE ITEMS	1990 Base	1990 Proposed	+ - Change
a. Resource Information	$75,023	40,342	-34,681
b. Fisheries Industry Information	$ 9,759	6,840	- 2,919
c. Information Analysis and Dissemination	$18,912	17,995	- 917
Subtotal (all numbers in thousands)	$103,694	$65,177	-38,517

Conservation and Management Operations. This subactivity covers those NMFS programs that directly utilize the data developed in the above programs to devise and implement domestic and international measures for the conservation and management of marine fisheries resources and the protection of marine mammals and endangered species.

LINE ITEMS	1990 Base	1990 Proposed	+ - Change
a. Fisheries Management Programs	$29,044	15,507	-13,537
b. Protected Species Management	$ 3,883	3,612	- 217
c. Habitat Conservation	$ 5,412	3,529	- 1,883
d. Enforcement and Surveillance	$ 7,371	7,371	0
Subtotal	$ 45,710	30,019	-15,691

State and Industry Assistance Programs. This subactivity covers those NMFS programs that support state research on commercial and anadromous fisheries and the development of the U.S. fishing industry, including export promotion, product quality, safety services and fishery trade information.

LINE ITEMS	1990 Base	1990 Proposed	+ - Change
a. Grants to States	$ 6,655	0	- 6,655
b. Fisheries Development Programs	$11,468	4,220	- 7,248
Subtotal	$ 18,123	4,220	-13,903
TOTAL	$167,527	99,416	-68,111

II. MISCELLANEOUS ACCOUNTS

The second portion of the NMFS budget consists of six miscellaneous accounts that provide the U.S. fishing industry with various insurance or financing services. Each account has a unique source of revenues (e.g. foreign fishing fees or OCS receipts) and is not dependent on general revenues from the U.S. Treasury.

		1990 BASE	1990 PROPOSED
1.	Saltonstall-Kennedy Fund		
	a. Industry Assistance Grants	5,088	0
	b. NOAA Offsets	45,600	53,700
	c. Fisheries Promotional Fund	3,000	0
2.	Fishing Vessel Gear Damage Compensation Fund	1,000	1,000
3.	Fishermen's Contingency Fund	750	750
4.	Foreign Fishing Observer Fund	2,000	2,000
5.	Federal Ship Financing Fund Fishing Vessels (Loan guarantees)	--	--

Saltonstall-Kennedy (S-K) Fund

This program supports projects to promote and develop the U.S. fishing industry by providing grants to industry or by facilitating work with NMFS. Revenues for this program are derived from 30 percent of the annual tariff receipts on imported fish products. In fiscal year 1989, $53.6 million was collected and deposited into the Fund. Of that amount, $45.6 million was transferred to offset the ORF appropriation, $3 million was transferred to the Fisheries Promotional Fund and the remaining balance of $5.088 million was available for industry assistance grants. The Administration proposes to terminate all industry assistance grants under the S-K program, terminate funding for the Fisheries Promotional Fund and use 100% of the receipts (estimated at $53.7M) to offset the ORF account in fiscal year 1990.

Fishing Vessel and Gear Damage Compensation Fund

This program compensates domestic fishermen when vessels or gear have been lost, damaged or destroyed by foreign vessel operations in the U.S. Exclusive Economic Zone (EEZ). The fund is totally supported by user fees collected from foreign fishermen by NMFS. Disbursements are made only by appropriations. As U.S./foreign fishing gear conflicts have steadily decreased with the development of the U.S. fishing industry, claims under this program have diminished. The Administration requests an appropriation of $1 million to cover anticipated claims for 1990.

Fishermen's Contingency Fund

This program compensates domestic fishermen for damage or loss of fishing gear due to obstructions related to oil or gas exploration, development or production on the Outer Continental Shelf. The fund is totally supported by user fees collected from the offshore oil and gas industry, with disbursements made only to the extent authorized in appropriations acts. The Administration has proposed level funding for this program at $750,000.

Foreign Fishing Observer Fund

This program provides U.S. observer coverage of foreign vessels fishing within the U.S. EEZ to increase compliance with U.S. fishing regulations and requirements. In addition, program funds are used to train and deploy observers and to collect and analyze observer data. The fund is financed through fees on owners and operators of foreign vessels. In 1982, the Congress instituted a supplemental observer program to ensure 100 percent coverage. Under the supplemental program, foreign operators are required to contract directly for observers certified by NMFS where appropriations are insufficient to provide full U.S. coverage of foreign vessels operating within the EEZ. The Administration proposes level funding for this program at $2 million.

Federal Ship Financing Fund (Fishery Obligation Guaranty)

This fund provides loan guarantees for the construction, reconstruction, or refinancing of fishing vessels and shoreside processing facilities. It also provides long-term debt financing of major production equipment by allowing small fishing business to enter the nation's major debt capital markets. It typically doubles the maturities that are available and lowers interest rates commensurate with the risk-free government guarantee. User fees pay administrative expenses and capitalize the reserve from which guarantees are redeemed. Authorizing legislation (Title XI-Merchant Marine Act of 1936) provides an obligation ceiling of $850 million under this program. No new loan guarantees will be made in 1990 and the Administration intends to propose legislation terminating the program. The close out of the program and management of the portfolio is proposed to be conducted by the Office of Grants and Loans Administration in the Office of the Secretary.

TESTIMONY OF FRANK H. DUNKLE, DIRECTOR, U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR, BEFORE THE SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT, COMMITTEE ON MERCHANT MARINE AND FISHERIES, U.S. HOUSE OF REPRESENTATIVES, CONCERNING THE FISCAL YEAR 1990 BUDGET FOR THE U.S. FISH AND WILDLIFE SERVICE

February 22, 1989

Mr. Chairman, I appreciate the opportunity to be with you today to discuss the President's budget for the U.S. Fish and Wildlife Service for Fiscal Year 1990.

The Service is committed to protecting and conserving the fish and wildlife resources of this nation through sound and informed management practices.

We will continue our role as stewards of our natural resources. We take seriously our delegated responsibility to effectively manage fish, wildlife and their habitats insuring that coming generations will have the opportunity to experience the value of our heritage.

We have been successful in the last four years in improving the condition of physical facilities on refuges. We believe it is time to focus additional resources on several key areas which are critical to fish and wildlife conservation.

FISCAL YEAR 1990 BUDGET TOTALS

The 1990 budget request of $606 million proposes a realistic plan to maintain essential operating activities and restore and enhance nationally significant resources, while doing our part to meet the targets in the Balanced Budget and Emergency Deficit Control Act.

A total of $360.7 million is included for funds subject to annual appropriations, a decrease of $96 million below the 1989 enacted level, but an increase of $13.7 million above the 1989 President's Budget. This budget is consistent with the previous Administration's request. However, in keeping with the President's commitment to protect the nation's most valuable natural and cultural resources, the Service will be requesting a significant increase for land acquisition activities above the $2 million level shown in the 1990 budget request.

HIGHLIGHTS OF THE 1990 BUDGET

The 1990 budget confirms our resolve to move forward in properly managing for the future through the aggressive pursuit of wetlands conservation and restoration opportunities, the promotion of partnerships with the public and private sector to halt the drastic decline of waterfowl populations, and the return of nationally important fisheries to their historic waters. I would like to expand on these three initiatives as proposed in the 1990 budget request.

WETLANDS CONSERVATION AND RESTORATION

The Service is requesting additional funding to stem the decline in wetlands. Wetlands are a valuable ecological resource that nurture wildlife, help maintain water quality by filtering out pollutants and sediment, check the destructive power of floods and storms, and provide for recreational activities. Approximately 215 million acres of wetlands existed in the contiguous United States at the time of the Nation's settlement. By the mid-1980s, about 95 million acres remained, 44 percent of the original wetlands acreage. Annual wetlands losses average about 450,000 acres.

Agricultural development accounted for 87 percent of wetland conversions in the twenty-year period from mid-50's to the mid-70's. Since that time, a number of programs have been instituted which may slow the rate of loss, including the provisions of the Food Security Act of 1985 (Farm Bill). Under this law, and working with the Department of Agriculture, the Service has the opportunity to conserve and restore essential wetland habitat through the development of perpetual and long-term easements and restoration on marginally productive agricultural lands.

Of the 1.5 million acres in the Department of Agriculture's Farmers Home Administration inventory lands, the Service estimates that over 200,000 acres of wetlands may be preserved and enhanced.

Since 1988, Service efforts have resulted in restoration of 35,000 acres of wetlands at a average cost of $100 per acre. The 1990 budget requests a total of $6.1 million, an increase of $1.4 million above the 1989 level, to restore approximately 25,000 acres of wetlands. This approach offers a lower-cost alternative to wetlands acquisition since no lands are purchased and initial restoration costs have been low.

NORTH AMERICAN WATERFOWL MANAGEMENT PLAN

In 1986, as a result of major waterfowl conservation problems, the United States and Canada signed the framework for the conservation of North American waterfowl. In 1988, Mexico joined the efforts of Canada and the United States to improve the conservation of migratory birds and the wetland habitats essential to their survival.

Losses of breeding, migration and wintering habitat have contributed to long-term downward trends in waterfowl populations. In addition to conservation of habitat, the Plan recognizes the need to manage duck harvest through the use of stabilized regulations, to improve breeding ground survey data, to maintain and improve national waterfowl harvest surveys, to minimize the illegal kill of migratory waterfowl, and to expand the research on the effects of predation and disease related to population losses.

The 1990 budget proposes an initial funding level of $3.7 million to adequately establish joint venture coordinators in each of the 6 priority areas, to improve continental migratory bird surveys and populations assessments essential to the implementation of two joint ventures for black ducks and Arctic nesting geese.

FISHERIES

The Service has taken an active role in meeting our Federal responsibility to restore depleted nationally significant fishery resources, to mitigate fishery resources impaired by Federal development projects, and to assist with management of fishery resources on Federal lands.

As part of the Federal commitment to insure mitigation of declining Pacific Northwest fisheries -- resulting from the development and operation of hydroelectric projects -- the Service is proposing an increase of $1.2 million to continue the operation and maintenance of the Lower Snake River mitigation facilities. Costs related to this activity are borne by the project beneficiaries -- power users -- and reimbursed to Treasury by the Bonneville Power Administration.

In 1990 the Service is also requesting $450 thousand to initiate the first phase of a three year program to recover depressed anadromous stocks in the Pacific Northwest. In support of salmon and steelhead restoration activities in the Pacific Northwest, the Service is playing a vital role in implementing domestic and international treaties by producing fish through a combination of hatchery production and habitat rehabilitation. The increased funds will contribute an additional 5.8 million chinook/steelhead to the fisheries.

Let me now briefly summarize other changes in each of the program areas by highlighting the most significant changes from the FY 1989 appropriation.

RESOURCE MANAGEMENT

Fish and Wildlife Enhancement - The request for Fish and Wildlife Enhancement activities totals $47.5 million, which includes the wetlands restoration initiative we discussed earlier. Funding for endangered species will total $25.9 million in 1990 compared to $33.7 million in 1989. Of this $7.8 million reduction, $5 million is due to the termination of the state grant program. This program has generated active involvement by most States in endangered species activities which can be expected to continue. The Service is proposing deferral of recovery activities for 23 species in 1990, resulting in a decrease of $1.5 million. Recovery actions will be continued for the highest priority endangered species, as will law enforcement and research activities supportive of recovery.

The Service is continuing to actively monitor and evaluate the effects of environmental contaminants and continues to devote significant resources to the cleanup of environmental contaminants on Service lands. The 1990 budget provides $23.2 million for contaminant activities related to fish and wildlife resources. The Service is proposing appropriation bill language that would provide no-year authority for $1 million of the funding budgeted for contaminant sample analysis. Availability of no-year funds will allow the Service to maintain a consistent level of sample analysis and provide for more effective use of these funds.

Refuges and Wildlife - Within the $143.6 million requested for Refuges and Wildlife is $3.7 million to support wetlands conservation and enhancement through implementation of the North American Waterfowl Management Plan. The FY 1990 budgeted level for operations and maintenance of refuges totals $109.8 million and accommodates an increase of $750 thousand for operation of new refuges, as it is anticipated that the National Refuge System will include 19 new refuges in 1990. Funding will support essential operational activities as well as preservation of endangered species, unique ecosystems, waterfowl habitat and other fish and wildlife values. As funding is no longer needed for the Oregon Coastal Aquarium, a decrease of $1.5 million is proposed. Federal funding provided for Alaska subsistence grants has aided the State of Alaska in initiating and establishing the subsistence program and the 1990 request proposes to eliminate further funding for this program. Highest priority work related to contaminants investigation, irrigation drainwater, fishery management on refuges and water rights quantification and adjudication can be continued within 1990 funding levels.

The 1990 budget for the Service includes a request of $2.5 million for a study program on the 1002 area of the Arctic National Wildlife Refuge. These studies will allow the Service to develop a more comprehensive understanding of the impacts that might occur from oil and gas development activities and make informed management decisions. An increase of $475 thousand is requested for 1990 to address the potential impacts of port facilities on bird use of offshore and nearshore waters and associated habitats, and the migration and feeding of anadromous and nearshore fishes.

A total of $22 million is requested for continuation of the Service's law enforcement program. One of the most compelling problems facing the Department is the growth in drug enforcement problems on lands it administers. In carrying out responsible stewardship of the nation's resources and ensuring preservation of the National Wildlife Refuge System and other lands managed by the Service, an increase of $1 million is requested for drug enforcement. This increase will fund startup of the Service's nationally coordinated drug control program which will enhance cooperative efforts with other law enforcement agencies, including drug enforcement at port facilities. Within the $11.7 million requested for Migratory Bird Management, the Service will continue to fulfill its current responsibilities under the Western Hemisphere Convention as well as the management and monitoring of nongame species at reduced funding levels.

Fisheries - The 1990 budget requests a total of $41.8 million for Servicewide fishery activities, including the operation of 71 fish hatcheries to meet restoration and production responsibilities.

In addition to mitigation and enhancement of Pacific salmon, the Service is requesting an additional $100 thousand for Federal fishery assistance efforts consistent with multi-agency striped bass restoration commitments. Funds will be used to support a cooperative State/Federal coastal tag and recapture program along the Atlantic coast from Maine to North Carolina.

The 1990 budget proposes that $1.4 million for the operation of fish hatcheries and fishery assistance offices on Indian tribal lands, which were transferred to the Service in the 1989 appropriations act, be returned to the budget of the Bureau of Indian Affairs (BIA) in FY 1990. Although funded in the BIA account, the Service may continue to operate these hatcheries. Additional savings, totalling $405 thousand, will occur in 1990 as a result of completion of one-time maintenance projects at three facilities. A decrease of $1.6 million in maintenance funding is proposed in 1990.

Research and Development - The 1990 request for Servicewide research activities is $54.5 million, $7.5 million less than the enacted amount. The requested amount for research is composed of $43.4 million for operations and maintenance of 13 national research centers and 89 field stations, $5.3 million for technical development of scientifically based methodologies to quantify impacts resulting from changing land and water uses, and $5.8 million to operate 41 Cooperative Research Units.

General Administration - The request for General Administration totals $54.6 million, $1.3 million above the enacted amount. The 1990 budget requests an increase of $700 thousand for operating costs of the consolidated Washington Office and increased operating costs of the Finance Center located in Denver, Colorado. In addition, the 1990 budget proposes $100 thousand to support the Convention on Wetlands of International Importance. Funds will be contributed to the Convention's Secretariat to support special projects designed to conserve and protect international wetlands.

The 1990 budget provides for an adjustment of $5.5 million to fund the annualization of the January 1989 Federal employee pay increase of 4.1 percent and Servicewide fixed costs increases, such as GSA space, Federal telecommunications, and postage. The effects of this adjustment will be to defer low priority maintenance projects at refuges, hatcheries and research facilities.

CONSTRUCTION

The Service is requesting additional construction funds totalling $10.1 million to alleviate potential health and safety problems. Within this amount, $3.7 million is requested for dam safety to conduct required reinspections of 84 dams. Also included is $3.0 million for planning, design and initiation of work at Lake Elmer Thomas Dam at the Wichita Mountains National Wildlife Refuge in Oklahoma. In addition to dam safety funding, $3.5 million is requested to address health and safety construction needs at Service facilities.

The 1990 budget does not propose continuance of the Anadromous Fish Grant program or the Emergency Striped Bass Study. The objective of the Anadromous Fish Conservation Act grant program was to encourage interstate cooperation in the management of anadromous fish resources. We believe there is sufficient participation by non-federal entities to insure necessary interjurisdictional cooperation without the incentive provided by this program.

LAND ACQUISITION

For the land acquisition appropriation, I am happy to inform the Committee that for FY 1990 the President has proposed to fund LWCF financed Federal land acquisition activities at the 1989 enacted level of $206 million. At this time, the Department of Interior and the Department of Agriculture are finalizing the details for the revised funding level for each land management agency. The Service will provide the Subcommittee with the details of the revised land acquisition request for the Service as soon as it is available.

Receipts to be deposited to the Migratory Bird Conservation Account for wetland acquisition are estimated at $33.3 million in 1990 to acquire an estimated 61 thousand acres in migratory bird refuge and waterfowl production areas.

FEDERAL AID IN WILDLIFE AND SPORT FISH RESTORATION

The Federal Aid in Wildlife Restoration program is funded from excise tax receipts on hunting equipment. Similarly, the Sport Fish Restoration Program is funded from receipts from taxes on fishing equipment, and certain boats and fuels. Both programs provide grants to the States and Territories for projects to restore, enhance, and manage wildlife and sport fishery resources.

The Sport Fish Restoration program has funded over 500 State projects annually. Since the beginning of the program, approximately 200,000 acres were acquired, and nearly 400 fishing lakes were created. It should be noted, that in a single year anglers spent $28.1 billion in pursuit of sport fishing.

Similarly, the Federal Aid in Wildlife Restoration program has funded over 400 State projects annually, including acquisition of wildlife habitat, public access and facilities, and hunter safety. In 1985, hunters spent approximately $10.1 billion.

We are pleased that the States have been able to effectively utilize the Federal aid programs.

With the 1990 request the Department is proposing to cap, through the use of appropriations language, the budget authority for these programs at $100.0 million each. The unappropriated balances in the accounts will continue to be available for appropriations in the future. This proposal will not hurt the program over the long-run and will help to keep the budget deficit under control this fiscal year.

This concludes my prepared testimony. I appreciate the opportunity to appear before the Committee. I would be pleased to answer any questions the Committee may have.

The Texas Shrimp Association
First in Fisheries
403 Vaughn Building Austin, Texas 78701
Tel. (512) 476-8446, 476-8447
FAX (512) 477-3234

FEB 28 [illegible]

February 24, 1989

The Honorable Walter B. Jones
Chairman
House Committee on Merchant Marine and Fisheries
1334 Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Jones:

The Texas Shrimp Association appreciates the opportunity to submit these comments concerning the proposed 1990 budget for the National Marine Fisheries Service. We request that they be included as part of the hearing record.

Information Collection and Analysis

Under this subactivity, the Administration is seeking a $38.5 million reduction in work. The items funded under this subactivity include collection and analysis of information on fishery resources, protected species, and habitat.

The proposed cut of $5,133K and $471K would have a tremendous negative impact on the ability of NMFS to proceed with work on habitat research and evaluation. Fish are a renewable resource but their habitat needs to be protected or there will be no more fish. Presently, fishery habitat is being increasingly threatened by development and pollution. We believe this work needs to remain at level funding or be increased.

Proposed reductions in protected species research ($1,200K) and marine mammal research ($1,506) also impact on the shrimp industry. We believe there still needs to be further testing and design modification of the turtle excluder devices. Additionally, it is absolutely essential that NMFS continue to assess marine mammal populations, particularly in light of the requirements of the 1988 Amendments to the Marine Mammal Protection Act. We believe these elements need to be level-funded.

Branch Office: 1110 Vermont Ave. N.W., Suite 1160, Washington, D.C. 20005
Tel. (202) 293-5513

MARFIN is slated for a reduction of $3,000K. Much of the research conducted under the auspices of MARFIN monies is actually research work of NMFS. For example, $210,000 of the 1989 MARFIN monies are being spent on the National Academy of Science turtle study required by the 1988 Reauthorization of the Endangered Species Act.

For the past several years, approximately 1/3rd of the MARFIN money has gone to NMFS for their research efforts. Attachment #1 and #2 are the lists of approved NMFS projects and contracts for 1988 and for 1989. It should be noted that NMFS does not compete competitively for these funds. As a matter of fact, NMFS submits their request and is awarded their contracts prior to the publication of the FEDERAL REGISTER notice announcing the available funds for the year.

For 1989, prior to the FEDERAL REGISTER notice 1/2 of the available funds are already expended. Attachment #3 outlines these initial allocations.

We believe that the continuation of MARFIN for the Southeast fisheries is absolutely essential at the level of $3,000K.

Conservation and Management Operations

We are concerned that the proposed cut of $3,766K in the Regional Fishery Management Councils may result in an inability on the part of the Councils to fulfill the requirements of the FCMA.

The budget for the habitat conservation work is proposed for a reduction of $1,883K. Under this item, NMFS provides other regulatory agencies with a prediction of the impact of their actions on fishery habitats and recommends actions to mitigate that impact. This program is of tremendous value to the shrimp industry because many of the proposed Federal activities have potential impact on shrimp nursery grounds. We believe that NMFS alone has the expertise to provide this service. Moreover, it is the mission of NMFS to conserve fishery resources; that is not the primary mission of any other agency.

State and Industry Assistance Programs

Under the budget proposal, the product quality and safety research would receive a cut of $4,400K. We understand that this would virtually eliminate this program. This proposal is being forwarded at a time when the safety of seafood is of great concern to the American consumer. We believe that this program should continue to assist the industry in assuring continued and improved acceptability of U.S. products in domestic and export markets.

The seafood inspection program would be cut by $330K according to the proposal. Congress appropriated funds in FY 1987 and FY 1988 for NMFS to design an improved system of inspection and certification of seafood in the United States. We understand that this program is not to be completed until next year. Given the concerns of the American consumer about safe seafood and inspection of product, we believe that this program should continue to receive the necessary funding until it is completed and implemented.

The Administration once again proposes to terminate the Saltonstall-Kennedy Grants Program and to use the funds generated by fishery imports to offset the budget deficit. We believe that the S/K Matching fund program should be continued at the level of about $10M. It encourages private initiatives within the fishing industry to solve problems.

* * * * * *

Thank you for your consideration of our comments. If TSA can provide additional information, please contact us.

Sincerely,

Ralph Rayburn

Ralph Rayburn
Executive Director

Attachment A

OIG HOTLINE

EMPLOYEES HOTLINE

TOLL FREE

800-424-5081

FTS **343-2424**

NOTE: Hotline should not be used to report complaints of personnel or equal opportunity matters, for which other reporting systems are already in place.

OIG
HOTLINE

As a DOI employee, it is your duty to report-

FRAUD, WASTE & ABUSE!!!

Attachment B

individuals or entities; disclosure of proprietary information; kickbacks on DOI contracts; collusion, bid rigging or price fixing on DOI projects; misconduct by high level DOI officials or persons in sensitive or fiduciary positions; conflicts of interest; travel fraud, time and attendance falsification; and gross waste or mismanagement. Investigations are also conducted upon formal requests from designated DOI officials on serious matters which could embarrass the Department or threaten the integrity of DOI programs.

1.4 Responsibility and Authority.

A. Inspector General. The Inspector General, under the general supervision of the Secretary is responsible for conducting and supervising audits and investigations relating to programs and operations of the Department; providing leadership, coordination, and policy recommendations to promote economy, efficiency and effectiveness, and to prevent and detect fraud and abuse in the administration of the programs and operations of the Department; and keeping the Secretary and Congress fully and currently informed about problems, and the necessity for and progress of corrective actions in the administration of the Department's programs and operations.

The Inspector General is the point of receipt in the Department of the Interior for complaints from the Special Counsel of the Merit Systems Protection Board and is responsible for making arrangements to comply with the investigative provisions of Section 202 ("whistle blower" provisions). of the Civil Service Reform Act of 1978 (Public Law 95-454; 5 U.S.C. 1205-1209).

B. Assistant Inspector General for Investigations (AIGI). Section 3(d)(2) of the Act gives the AIGI the responsibility for supervising the performance of investigative activities relating to the Department's programs and operations.

C. Authority of OIG Special Agents.

(1) Special Agents of the Office of Inspector General are authorized to investigate violations of the laws of the United States and the regulations of this Department; and to carry out such other official and confidential duties as directed or required. They are authorized by statute (43 U.S.C. 1466) to administer, or take, an oath, affirmation, affidavit, or deposition whenever necessary in the performance of their official duties. The Special Agents are duly authorized under the provisions of the Act and by the Department of the

(Partial Chapter)

Interior, within the meaning of 18 U.S.C. 1510(b), to investigate violations of the criminal laws of the United States.

(2) In carrying out assigned investigations, the Special Agents may inquire into any program, policy, grant, contract, cooperative agreement, or other activity relating to or funded by the Department or its employees. All officials and employees of the Department are expected and required to cooperate fully with Special Agents in the performance of their duties, subject to penalty or appropriate disciplinary action.

(3) Provisions of Privacy Act of 1974. The provisions of the Privacy Act of 1974 relating to access of certain systems of records within the Department do not apply to inquiries concerning these records or access to the records by Special Agents. Disclosures to Special Agents of the OIG conducting authorized investigations are disclosures to employees "of the agency which maintains the record who have a need for the record in the performance of their duties". See 5 U.S.C 522a(b)(1).

D. Assistant Secretaries and/or the Heads of Bureaus and Offices in addition to reporting responsibilities in paragraph 1.3D, are responsible for timely responses to all investigative reports and for ensuring appropriate disciplinary and other actions involving program irregularities and deficiencies. They will designate a high level contact for all investigative matters and will advise the Office of Inspector General of the designation and any changes. A formal system of follow-up on investigative findings, including disciplinary actions shall be established by Assistant Secretaries and bureaus and offices to ensure that the required action is taken and reported. Management will establish time schedules for taking corrective actions; maintain records of actions; periodically review reports on actions taken; and appoint an individual from each bureau or office as responsible for ensuring timely corrective actions on findings.

E. Receipt of Employee Complaints. Section 7 of the Act states: "(a) The Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public's health and safety. (b) The Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the

Chapter 6 Hotline Matters

6.1 Employee Complaints. Section 7 of the Inspector General Act of 1978 provides that the Inspector General may receive and investigate complaints or information from an employee of the establishment concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health and safety.

6.2 Procedure for Making Complaints by Means of Hotline. Employees and others may contact the Office of Inspector General by using the toll free Hotline 800-424-5081. Persons located in the Washington, D.C., area should use telephone number 343-2424. Persons wishing to write directly to the Office of Inspector General should use its Post Office box address: Department of the Interior, Office of Inspector General, P.O. Box 57016, Washington, D.C. 20037. Mail sent to this Post Office Box is transmitted unopened to the AIGI.

6.3 Confidentiality. Pursuant to Section 7(b) of the Inspector General Act, the Inspector General shall not, after receipt of a complaint or information from an employee, disclose the identity of the employee without the consent of the employee, unless the Inspector General determines such disclosure is unavoidable during the course of the investigation.

6.4 Additional Hotline Matters. For purposes of this section certain matters referred to the Office of Inspector General outside the above-described system will be placed in the Hotline control system and handled in the same manner as the above described type of complaint or information. This will include GAO referrals.

6.5 Handling of Hotline Matters. Each Hotline complaint or information will be placed into the investigative system of records of the Assistant Inspector General for Investigations. The matter will be reviewed and analyzed to determine whether the matter should be retained by OIG for full investigation or audit; referred to the appropriate bureau or office for initial inquiry, request of additional information from the complainant, or investigation; or referred to another Department of Government or law enforcement agency. The Hotline caller will not be identified in this referral system except in instances as set out in 355 DM 6.3, or with the permission of the submitter of the complaint or information.

(b) General Policy.

Employees of the Department are expected to maintain especially high standards of honesty, integrity, impartiality, and conduct to ensure the proper performance of Government business and the continual trust and confidence of citizens in their Government. Employees are expected to comply with all Federal statutes, Executive Orders, Office of Personnel Management regulations and Departmental regulations. The conduct of employees should reflect the qualities of courtesy, consideration, loyalty to the United States, a deep sense of responsibility for the public trust, promptness in dealing with and serving the public, and a standard of personal behavior which will be a credit to the individual. These principles apply to official conduct and to private conduct which affects in any way the ability of the employee or the Department to effectively accomplish the work of the Department.

(c) Equal employment opportunity policy.

It is the policy of the Federal Government that there shall be no discrimination in employment based on such factors as race, creed or religion, color, national origin, political affiliation, physical handicap, sex, age, union membership or non-membership, and similar matters not related to merit and fitness. This policy does not affect in any way the provisions of 25 U.S.C. 472 dealing with Indian preference in employment.

(d) Conformance with policy and subordination to authority.

Employees are required to carry out the announced policies and programs of the Department and to obey proper requests and directions of supervisors. While policies related to one's work are under consideration employees may, and are expected to, express their professional opinions and points of view. Once a decision has been rendered by those in authority, each employee is expected to comply with the decision and work to ensure the success of programs or issues affected by the decision. An employee is subject to appropriate disciplinary action, including removal from office, if he or she fails to:

(1) Comply with any lawful regulations, orders, or policies, or

(2) Obey the proper requests of supervisors having responsibility for his or her performance.

1.6 Nonofficial expression. The term "nonofficial expression" means the preparation, composition and presentation, including travel to the place where such presentation is to be made, by: (a) books, articles, pamphlets, and brochures; (b) speeches, lectures, illustrated talks; and (c) visual presentations or drawings; by any Bureau employee in other than the performance of his official duties.

A. Policy. The Bureau encourages nonofficial expression by employees on matters within their competence, through published writings, lectures, graphic presentation and other means though some of the subject matter may be related to the employee's official duties. Such expression achieves better public understanding of the Bureau's programs and spreads knowledge of the results of its scientific, technical, and administrative activities. If, however, the subject material involves any contribution by the Government, either in the preparation or presentation, Bureau employees may not accept or retain payment from outside sources. This policy is intended to assist serious, constructive effort, and does not suggest or imply Bureau sanction of trivial or controversial expression by employees.

B. Clearance requirements. Personal expressions prepared by an employee on his own time and unrelated to Bureau activities are not subject to clearance.

An expression is subject to clearance when:

— (1) It relates to the employee's official duties or the Bureau's activities.

— (2) It is based primarily on knowledge acquired as a consequence of his official duties; or

— (3) It presents material in such a way, or associates the author with the Bureau in such a way, as to lead the public to construe the expression as an official Bureau expression.

C. Clearance procedure. For each nonofficial expression subject to clearance send a Notice of Intention and Certificate of Compliance to the Washington Office in duplicate. The Notice must set forth:

(1) An outline of the subject matter of the proposed expression;

(2) The medium of expression;

(3) The title under which the work is to be published or presented;

(4) The author's name and title to be used in the work, if such title is to appear.

(5) The name or title of probable publisher, or of the sponsoring organization in the case of lectures, speeches, or visual presentations.

The branch chief concerned, through his division chief, recommends that the Director grant or withhold clearance for the nonofficial expression.

If the employee expects to receive pay for the expression, additional clearance is needed as provided in D. below.

D. Acceptance of pay for nonofficial expression. A Bureau employee may retain payment made to him for any nonofficial expression which is subject to clearance as required in C. above, provided:

(1) His work in the preparation and the presentation of the expression is performed wholly outside duty hours;

(2) The preparation or presentation of the expression does not involve any contribution by the Government of time or services of other Government employees while in duty status, or of Government funds, facilities or materials;

(3) The ideas, concepts, data, statistics, intelligence, descriptions of scientific or technical processes or design, formulae, and similar information produced as a result of, or in connection with, the Bureau's activities, and embraced by the expression, are contained in published documents, or, if unpublished, are available to the public at the time of the employee's disclosure; and

(4) He submits a Notice of Intention and Certificate of Compliance in accordance with sec. C, above, and includes thereon a signed certification that the subject matter has been prepared or will be presented in full accord with the conditions set forth in 7 AM 1.6D.

E. Record of action. After the Director signs the original copy of the Notice of Intention and Certificate of Compliance, it is sent to the originating division for permanent reference. The employee is notified by return of the duplicate copy of the action taken.

Grievance Procedures

22.1 Purpose. The purpose of this chapter is to provide a mechanism by which employees may address matters of personal dissatisfaction which are subject to the control of the Fish and Wildlife Service.

22.2 Scope.

A. Employee coverage. All nonbargaining unit employees of the Service are covered by the grievance procedures, regardless of type or tenure of appointment. A former employee of the Service is covered to the extent that the grievance is timely filed prior to separation from the Service and concerns matters appropriate for review under these procedures.

B. Matters covered.

(1) Except as provided in 22.2C, the grievance procedures are used to review matters of employee concern or dissatisfaction which are subject to the control of management and for which the employee seeks personal relief (a specific remedy directly benefiting the employee and may not include a request for disciplinary action affecting another employee), or any matter in which the employee alleges that coercion, reprisal, or retaliation has been practiced against him or her, for exercising, or attempting to exercise rights provided by this chapter.

(2) An employee may contest a Board of Survey (see 23 AM 9.11) finding through the formal grievance procedures. The formal grievance must be placed in writing and filed with the servicing personnel office within 15 calendar days of receipt of the Board of Survey notice.

C. Matters not covered. The grievance procedures do not apply to any of the following:

(1) The content of published regulations and policy. As an alternative, an employee's allegation that established policy is in conflict with law or regulation of a higher authority may be submitted in writing through his or her servicing personnel office to the office with primary responsibility for the policy at the Service or Department level for consideration and response.

(2) A decision which is appealable to the Merit Systems Protection Board (MSPB), the Office of Personnel Management (OPM), or the Equal Employment Opportunity Commission (EEOC) under law or regulation.

(Partial Chapter)

(3) A notice or proposal of an action which, if effected, would be appealable to the Merit Systems Protection Board.

(4) Nonselection under a promotion announcement from a group of properly ranked and certified candidates.

(5) A notice of an action which, if effected, would be covered under the Service grievance procedures, such as a suspension for 14 days or less.

(6) A return of a Senior Executive Service career appointee to the General Schedule or another pay schedule during the 1-year probationary period or for less than fully successful executive performance under 5 U.S.C. 3592.

(7) An action which terminates a temporary promotion within a maximum period of 2 years and returns the employee to the position from which the employee was temporarily promoted, or assigns the employee to a different position that is not at a lower grade or pay than the position from which the employee was temporarily promoted.

(8) The content of the critical elements and performance standards of an employee's position or summary performance rating assigned under the performance appraisal system.

(9) The adoption or nonadoption of a suggestion or disapproval of a quality step increase, performance award, or other type of discretionary award, including awards of rank for members of the Senior Executive Service; or for failure to initiate an award.

(10) A merit increase or lack of a merit increase under the Performance Management and Recognition System (PMRS).

(11) The termination of an employee serving a probationary or trial period after initial appointment for unsatisfactory performance or conduct; however, the reasons for separation appearing on the official personnel action may be contested through the provisions of the Privacy Act of 1974.

(12) A return of an employee from an initial appointment as a supervisor or manager to a nonsupervisory or nonmanagerial position for failure to satisfactorily complete the probationary period.

Attachment F

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR,
FISH AND WILDLIFE SERVICE

In Reply Refer To:
FWS/PDM

DEC 20 1988

To: Regional and Assistant Directors

From: Deputy Director

Subject: Free Speech of Service Employees

Attached for your information is a letter to the Government Accountability Project, a nonprofit public-interest group, concerning the above subject. The letter contains my views on the existing guidance applicable to individual employee expressions.

The incoming letter from the group indicated that it possessed two Fish and Wildlife Service (Service) memoranda suppressing employee rights, but the particulars cited did not substantiate this charge. I encourage you to review the letter and the response (particularly the attachments) which clearly set forth the Service's position on free speech in the workplace for Service employees.

Steve Robinson

Attachment

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR,
FISH AND WILDLIFE SERVICE

DEC 20 1988

Mr. Mark Allen, Staff Associate
Government Accountability Project
25 E Street, N.W., Suite 700
Washington, D.C. 20245

Dear Mr. Allen:

This responds to your July 20 letter concerning free speech in the workplace for Federal employees in general, and for U.S. Fish and Wildlife Service (Service) employees in particular. Be assured that I do not view improper managerial actions such as those suggested in your letter with light regard. If directives such as you mention in your letter have been issued, they are isolated, and in no way represent managerial actions at our more than 700 offices located throughout the Service. There has been no direction from this office to curtail employee rights.

Your letter cites several categories of the "free speech" arena, some concerning official or nonofficial expression, the others concerning release of Government documents. Each of the categories is addressed briefly in the following paragraphs.

Document availability. Except as otherwise may be provided by law, release of Government records generally falls under the provisions of the Freedom of Information Act. Our procedures follow the Act (Title 5, United States Code, Section 552) and the Department of the Interior rules (Title 43, Code of Federal Regulations, Part 2). The reference in your letter to release of records references the need for project leader approval. This requirement is consistent with the Service's delegations of authority for releases made under the Act. Project leaders may not redelegate their authority, if provided to them by their Regional Director, to release records. The project leaders do not have the authority to deny releases of records; such determinations must be made within their Regional Offices. Due to the sensitivity of Freedom of Information Act requests, the impact of statutes such as the Privacy Act, the dynamic guidance received from court decisions, legislative and Executive direction, and the relative infrequent application at the field office level, the delegations are proper.

Official expression. Such expression, either as written or oral presentation, needs little explanation. Quite simply, those officials in the Service assigned the responsibility in specific matters should be the ones issuing statements concerning such matters. Although this is particularly important in policy issues, it is equally important in the release of scientific and technical data. As noted above, we are a widely dispersed organization with hundreds of office locations employing no more than five employees. The logistics do not always provide that all Service offices and employees have the most current and complete data. I addressed these issues in the attached October 28, 1986, memorandum. The testimony of Service employees at legislative and judicial proceedings generally fits into this category.

Nonofficial expression. This area has been, and will likely continue to be, an issue of concern in the Service. Our employees not only possess a high degree of dedication to the work of the Service, but many are also recognized as experts in their professional disciplines. The Service has been, and continues to be, of the position that continuing promotion of individual recognition of our employees is mutually beneficial, and serves to ensure the recruitment and retention of expert natural resource managers and scientists. As you have noted, the difficulty occurs when there is an apparent difference between an individual's opinion and the Service's position on an issue. The obligation on the Service's part is to afford the individual an opportunity to express his or her opinion, a seemingly easy task compared to the obligation to ensure that individual opinion is not presented as a conflicting Service position that may appear to countermand an official decision and lead to public confusion. The Departmental regulations governing employee responsibilities and conduct, 43 CFR 20, provide guidance to employees necessary to ensure that they may adequately exercise their rights as individuals while policy is being developed. Longstanding Service policy concerning nonofficial expression is contained in the attached copy of Part 7, section 1.6 of the Administrative Manual.

In addition to the above categories of free speech for Federal employees, your letter addresses employee rights and obligations concerning fraud, waste, abuse and illegal conduct. As I have previously stated, I do not condone any direct or implied suppression of such rights. Employees may utilize the Inspector General and General Accounting Office services as necessary, and should feel free to communicate with their representatives. They are expected to ensure that such rights are exercised to preclude fraud, waste, abuse or illegal conduct, and not simply an effort to change policies with which they do not agree. While all of these opportunities are available to employees, I would strongly urge that they surface their concerns to appropriate Service managers prior to seeking outside assistance. The open and candid discussion between line managers and staff is essential to the decisionmaking process, ensuring that all sides of an issue are analyzed thoroughly. Without further detailed information, I hesitate to pass judgment on the two memoranda that you reference. If you wish to share them with us, we can provide more analysis of their intent, and if appropriate, ensure that any inadvertent, but improper statements are corrected. If you choose, you may also utilize the services of the Inspector General in the Department.

Your interest in the integrity of the Service is appreciated. If you have any further questions, do not hesitate to contact me again.

Sincerely,

Deputy DIRECTOR

Enclosures

United States Department of the Interior

FISH AND WILDLIFE SERVICE
WASHINGTON, D.C. 20240

ADDRESS ONLY THE DIRECTOR
FISH AND WILDLIFE SERVICE

OCT 28 1985

In Reply Refer To:
FWS/D

Memorandum

To : Service Directorate

From : Director

Subject: Release of Information to the Public and Media

I want to take this opportunity to state my policy regarding release of information to the public and media.

First, scientific and technical data developed by the Fish and Wildlife Service is in the public domain and should be made available to requestors within the reasonable and practical constraints of time and resources. In some instances, the requirements of a peer review process must be completed prior to release of such data as well as reports that disclose, interpret or analyze certain research findings. You should, of course, inform your supervisor of requests for data. In addition, it is incumbent upon us as professionals to insure that anyone receiving Service-generated data know the limitations and qualifications inherent to the materials provided. For instance, should the data be unrefined, inconclusive or incomplete, you have a professional obligation to clearly explain this to the requestor. This approach is essential to protect the scientific credibility of the Fish and Wildlife Service.

Second, concerning policy questions, it is imperative that the position of the Service is stated correctly. I draw a clear distinction between open and prompt disclosure of scientific information and the act of voicing Fish and Wildlife Service policy. Policy is the responsibility, at various levels, of management. If you are asked policy questions and the subject is not under your purview, you should defer to the appropriate person responsible for that policy. This is to insure that the public and external agencies are not confused by our positions. I realize all employees will not necessarily agree with all Service policies. However, once a decision is made, it is important that it is reported accurately.

This should clear up any previous misunderstandings about the Service policy toward communication with external entities.

A simple rule of thumb is that we do not withhold public information. I expect each Service employee to use good judgment and common sense in its application.

Frank Dunkle

1.6 Nonofficial expression. The term "nonofficial expression" means the preparation, composition and presentation, including travel to the place where such presentation is to be made, by: (a) books, articles, pamphlets, and brochures; (b) speeches, lectures, illustrated talks; and (c) visual presentations or drawings; by any Bureau employee in other than the performance of his official duties.

A. Policy. The Bureau encourages nonofficial expression by employees on matters within their competence, through published writings, lectures, graphic presentation and other means though some of the subject matter may be related to the employee's official duties. Such expression achieves better public understanding of the Bureau's programs and spreads knowledge of the results of its scientific, technical, and administrative activities. If, however, the subject material involves any contribution by the Government, either in the preparation or presentation, Bureau employees may not accept or retain payment from outside sources. This policy is intended to assist serious, constructive effort, and does not suggest or imply Bureau sanction of trivial or controversial expression by employees.

B. Clearance requirements. Personal expressions prepared by an employee on his own time and unrelated to Bureau activities are not subject to clearance.

An expression is subject to clearance when:

(1) It relates to the employee's official duties or the Bureau's activities.

(2) It is based primarily on knowledge acquired as a consequence of his official duties; or

(3) It presents material in such a way, or associates the author with the Bureau in such a way, as to lead the public to construe the expression as an official Bureau expression.

C. Clearance procedure. For each nonofficial expression subject to clearance send a Notice of Intention and Certificate of Compliance to the Washington Office in duplicate. The Notice must set forth:

(1) An outline of the subject matter of the proposed expression;

(2) The medium of expression;

(3) The title under which the work is to be published or presented;

(4) The author's name and title to be used in the work, if such title is to appear.

(5) The name or title of probable publisher, or of the sponsoring organization in the case of lectures, speeches, or visual presentations.

The branch chief concerned, through his division chief, recommends that the Director grant or withhold clearance for the nonofficial expression.

If the employee expects to receive pay for the expression, additional clearance is needed as provided in D. below.

D. Acceptance of pay for nonofficial expression. A Bureau employee may retain payment made to him for any nonofficial expression which is subject to clearance as required in C. above, provided:

(1) His work in the preparation and the presentation of the expression is performed wholly outside duty hours;

(2) The preparation or presentation of the expression does not involve any contribution by the Government of time or services of other Government employees while in duty status, or of Government funds, facilities or materials;

(3) The ideas, concepts, data, statistics, intelligence, descriptions of scientific or technical processes or design, formulae, and similar information produced as a result of, or in connection with, the Bureau's activities, and embraced by the expression, are contained in published documents, or, if unpublished, are available to the public at the time of the employee's disclosure; and

(4) He submits a Notice of Intention and Certificate of Compliance in accordance with sec. C, above, and includes thereon a signed certification that the subject matter has been prepared or will be presented in full accord with the conditions set forth in 7 AM 1.6D.

E. Record of action. After the Director signs the original copy of the Notice of Intention and Certificate of Compliance, it is sent to the originating division for permanent reference. The employee is notified by return of the duplicate copy of the action taken.

GOVERNMENT ACCOUNTABILITY PROJECT
25 E Street, N.W., Suite 700
Washington, D.C. 20001
(202) 347-0460

Mr. Frank Dunkle
Director
U.S. Fish and Wildlife Service
Interior Building
18th and C Streets, N.W.
Washington, D.C. 20245

July 20, 1988

Dear Sir:

The Government Accountability Project supports the protection of free speech in the workplace for federal employees without the fear of retaliation for exercising this right. This letter is intended to ascertain whether the Department of Interior continues its prior practice of blanket restrictions on legally-protected employee disclosures. As you may be aware, those restrictions are illegal under three statutes, as well as under the Constitution. In addition, we request your disclosure of all Fish and Wildlife Service policies, both formal and informally in practice, that could restrict employees from testifying at federal or state legislative hearings. Overall we seek your reassurance that the Department will comply with certain laws essential both to protect free speech rights and to keep the public informed.

Our immediate concern about Interior's employee disclosure policy arises from our understanding that gag orders are being instituted at Fish and Wildlife Service field offices by project leaders. We are concerned that although the Washington, D.C. level of the Service may have discontinued authorization of gag orders, such orders have been re-instituted at the field level. We possess two field office memoranda with restrictions so broad that employees are prohibited fromn engaging in protected speech. Our sources remain confidential out of their concern over retaliation against them for supplying us with the information. The substance of these memoranda is as follows. Field supervisors instruct the staff that, without approval, no documents generated in or received by the office are to be released to anyone outside of the office. The orders apply to finals and drafts of memoranda, letters, and reports. The only items to be released outside the office without field supervisor approval are final documents to the addressed recipient and to the individuals on the signatory's cc list. There are no other material exceptions.

[illegible]

We are concerned that these orders serve to discourage the legitimate flow of scientific information to the public, government agencies, and Members of Congress. We suggest that the Fish and Wildlife Service headquarters inform all field staff that gags are illegal and instruct field supervisors to retract any existing gag orders. Please forward us copies of any such memoranda issued to staff and supervisors. In addition to violating constitutional and statutory law, the gag orders conflict with Fish and Wildlife Service official policy as expressed to us by the Washington, D.C. headquarters. Most basically the restrictions are flatly illegal, under at least two statutes and the Constitution.

Federal statutory law and constitutional law both protect an employee's freedom to express his or her opinion on matters of legitimate public concern without fear of reprisal. On December 21, 1987, Congress enacted amendments to the Making Further Continuing Appropriations for the Fiscal Year Ending September 30, 1988 (H.J. Res. 395) bill. Amendment No. 14, Section 630, "Employee Disclosure Agreements," states that no funds appropriated for fiscal 1988 may be used to implement or enforce any nondisclosure policies, forms, or agreements "if such policy, form or agreement:

> ...
> (3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;
> (4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of Congress;
> (5) imposes any obligations or invokes any remedies inconsistent with statutory law..."

In short, it would be illegal to spend any funds implementing or enforcing agency orders in violation of this statute.

Section 630 broadly protects the free flow of information by denying federal agencies the use of funds to implement or enforce employee disclosure agreements. In enacting Section 630, Congress recognized the chilling effect of gag orders on "free speech under the first amendment and the whistleblower protections of various civil service laws." 133 CONG. REC. H11999 (Dec. 21, 1987)(statement of Rep. Brooks). For more legislative intent, see S. Rep. No. 498, 100th Cong., 1st Sess. 1179 (1987).

It violates Section 630 to forbid an informed public employee from disclosing information which serves as valuable testimony for a government investigation, or to retaliate against the employee for this public service. Members of Congress rely on public information and testimony at hearings to inform them on issues. Public employees, like other interested and knowledgeable members of the public, can provide this information, furthering the ability of government agencies and Congress to assemble a more complete formal record on the public impact of their decisions.

Section 630 reinforces the statutory protection for public employees created in the Civil Service Reform Act of 1978. 5 U.S.C. § 2302(b)(8), the "whistleblower" provisions of the Reform Act, prohibits supervisory employees from taking or failing to take

> "a personnel action with respect to any employee or applicant for employment as a reprisal for--
> (A)a disclosure of information by an employee or applicant reasonably believes evidences--
> (i) a violation of any law, rule, or regulation, or
> (ii) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,
> if such disclosure is not prohibited by law...."

In this context, "law" refers to statutory restrictions on disclosures. S. Rep. No. 969, 95th Cong., 2d Sess. 21 (1978). The whistleblower provision is clear: any other blanket restrictions on or reprisals against an employee for disclosures evidencing specific misconduct are illegal.

In addition to affecting employee ability to submit opinions to decisionmaking agencies and the public at large, the Fish and Wildlife Service field office memoranda could illegally curtail communications with Congress. Section 2302(b) includes a general prohibition against adverse action against public employees who make disclosures to Congress. After § (b)(11) the statute continues, "This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress."

Similarly, 5 U.S.C. § 7211 states, "The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied." The history of this statute is instructive. Congress enacted Section 7211 in 1912 to reverse President Taft's "gag rule" forbidding civil servants from communicating information to Congress without the consent of department chiefs. The law was enacted to codify first amendment rights and to reestablish the free flow of information to Congress. As one supporter of the law declared:

> How can a conscientious Member of Congress vote intelligently and for the best interests of the American people if the most reliable sources of information are closed to him?... [Upon passage of the bill] I shall be free to seek and secure information that will enable me the better to discharge my duties as a representative.

Appendix to 48 CONG. REC. 140 (1912)(statement of Rep. Stone).

In addition to statutory protection, the Constitution provides protection for the expression of public employees. In Pickering v. Board of Education, 391 U.S. 563 (1968), the Supreme Court recognized that the First Amendment protects the public speech of government employees. The Court balanced the interests of the employee and the public in making the information available against the interest of the government in efficient administration. Employee speech involving matters of public concern qualifies for protected speech status on topics far broader and potentially more disruptive than employee dissent over environmental threats. See Rankin v. McPherson, 107 S.Ct. 2891 (1987)(public employee's comment on a future assasination attempt against the President is protected by the First Amendment). In many cases, such as in Pickering, the former interest will outweigh the latter. A public employee's disclosure of information may also in itself promote government efficiency by facilitating a more informed decision, therefore making the balance weigh in favor of constitutional protection.

Finally, the field office memoranda could force agency employees to violate Department of Interior regulations and the Code of Ethics for Government Service. 43 C.F.R. § 20.735-2(b) requires that Interior employees exhibit "high standards of honesty, ... impartiality, and conduct to ensure the proper performance of Government business and the continual trust and confidence of citizens in their Government...." Department employees are to act in a manner which reflects "a deep sense of responsibility for the public trust [and] promptness in dealing with and serving the public." This is echoed by the Code of Ethics for Government Service, Pub. L. No. 96-303 (1980), which states that government employees should "I. Put loyalty to the highest moral principles and to the country above loyalty to persons party, or government department." Part X of the Code of Ethics reminds government employees that "public office is a public trust." 43 C.F.R. 20.735-2(d) states that employees "may, and are expected to, express their professional opinions and points of view." Does the agency expect literal obedience to provisions of nondisclosure orders when the restrictions would require employees to disregard their ethical duties by remaining silent about known illegality?

Thank you for your consideration of our request for clarification of the Department's willingness to obey the free speech laws, which are central concerns of our organization. We look forward to your prompt reply describing whether 1) the field office restrictions are intended to override either Section 630, 5 U.S.C. § 2302(b)(8), or 5 U.S.C. § 7211, and 2) Interior employees are restricted from testifying at public hearings.

Sincerely,

Mark Allen

Mark Allen
Staff Associate

Thomas Devine

Thomas Devine
Legal Director

cc: Representative George Miller
Representative John Dingell

U.S. FISH and WILDLIFE SERVICE

U.S. Department of the Interior

EMPLOYEE INFORMATION BULLETIN

Prepared by Division of Personnel Management and Organization

Bulletin No. 84-13 **Washington, D. C.** **Date:** JAN - 6 1984

To: All Employees

Subject: Public and Private Expression

As employees of the Fish and Wildlife Service, we have the responsibility to conduct ourselves in a manner that reflects credit on the Service and ourselves as Federal employees and, indeed, as private citizens. As private citizens, one of our most jealously guarded rights is that of freedom of expression. I encourage each of you to exercise that right.

From time to time, however, the line between private and public expression becomes blurred for some of us and we express our personal opinions in ways that can be construed as official Service statements. For example, any time you identify yourself by official organization, title, letterhead, or uniform, you are representing the Service. You, therefore, have the responsibility to be sure your statements are appropriate and accurate and that you have the authority to make those statements.

Statements on Service policy, "official expression," require explicit delegation and prior review, as explained in the Fish and Wildlife Service Administrative Manual (7 AM 1.5). "Non-official expression," prepared on your own time for non-Governmental presentation or publication but concerning Service activities or information you acquired as a result of your employment, also requires prior review and clearance (see 7 AM 1.6).

At times when expressing ourselves as private citizens, we may be tempted to bring the weight of the Service or our official position to establish or reinforce our credibility on a subject to support a private view. Don't do it. Mixing private and official roles more often than not results in discredit to the individual and the Service.

The best rule to follow is to carefully differentiate when you are a Service spokesperson and when you are not. If you speak only for yourself, ensure that you do not use Service affiliation as part of your credentials.

Robert A. Jantzen
Director

WI 0340-84

TESTIMONY OF

JAMES W. BRENNAN
ASSISTANT ADMINISTRATOR FOR FISHERIES
NATIONAL MARINE FISHERIES SERVICE
NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION
U.S. DEPARTMENT OF COMMERCE

BEFORE THE

SUBCOMMITTEE ON FISHERIES AND WILDLIFE CONSERVATION AND THE ENVIRONMENT
COMMITTEE ON MERCHANT MARINE AND FISHERIES
U.S. HOUSE OF REPRESENTATIVES

FEBRUARY 22, 1989

Mr. Chairman and Members of the Subcommittee:

My name is James W. Brennan and I am Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration (NOAA).

Thank you for this opportunity to discuss the President's FY 1990 budget request for the National Marine Fisheries Service (NMFS) component of NOAA. The 1990 budget before you is the one submitted by former President Reagan on January 9, 1989. As you know, however, on February 9, 1989, President Bush announced his budget plan which included recommendations for specific new initiatives and a residual freeze category. The NMFS budget falls into the residual freeze category and for the purpose of starting the budget process with Congress, the Reagan budget proposals for NMFS should be treated as if they are Bush Administration proposals. Let me first give you my perspective on the context in which the budget request for NMFS was developed, and in which I hope will be considered by you.

Our shared dilemma is how to fulfill the intent of legislative and policy mandates within a tightened level of overall Federal spending. Solving this dilemma will require us to examine new ways to protect, conserve, manage, and develop this Nation's living marine resources.

The challenges presented by increasing Americanization of our fisheries are growing. Regional Fishery Management Councils will require better information upon which to base the difficult management decisions regarding the allocation of available fisheries resources among domestic users, as foreign fishing within our Exclusive Economic Zone (EEZ) continues to diminish.

The trade deficit associated with edible fishery products, which is more reflective of the fisheries that NOAA is responsible for managing, fell from $4.1 billion in 1987 to $3.2 billion in 1988. In 1988, edible exports grew to a record $2.2 billion from $1.6 billion in 1987, while 1988 imports of edible product, $5.3 billion, are down slightly from the 1987 level of $5.6 billion.

In February of 1988, President Reagan and then Secretary Verity announced a new export awareness program--EXPORT NOW. Exports will continue in FY90 to foster growth in fishery exports using the many services available from Federal, State, and private sources.

The principal task of the NOAA Fisheries is to manage the fishery resources of the EEZ. I have asked the Regional Fishery Management Councils and our Regional Directors to report on the current overall status of our Nation's fisheries stocks. When it is completed, I will be happy to provide a copy to any Members of the Subcommittee who would like one. The report will serve to show how far we have come in achieving the goals of the Magnuson Fishery Conservation and Management Act (MFCMA) and how far we have to go.

In preparing the NOAA Fisheries budget proposal for FY 1990, we have reevaluated what is essential to conserve and manage the Nation's renewable, but highly vulnerable, living marine resources. We looked to ensure the continued and abundant availability of the fish in the EEZ, and the quality and wholesomeness of the seafood derived from that fish. Instead of independently performing some activities, more cooperative joint efforts with other Federal, State, and international agencies should be undertaken to reduce Federal program implementation and overhead costs. For example, during the past year we have concluded several cooperative agreements with States and academia on the shared use of and funding for maintenance of several of our research laboratories. We are working with the Corps of

Engineers on a pilot program to evaluate ways to create new wetland habitat and restore productivity to previously damaged wetlands.

Recent media focus on wetland destruction, estuarine and river pollution, ocean dumping, fish and marine mammal disease, medical wastes, and the safety of seafood for human consumption have increased public concern about the health of our coastal waters. NOAA has a major responsibility for assessing these issues and recommending appropriate actions. The NOAA budget for FY 1990 contains additional funding ($12.4 million) to support a major coastal ocean initiative. It will enhance the Agency's capability to understand, characterize, monitor, and predict changes in the coastal ocean. It will also help us address important seafood quality issues related to habitat concerns. NOAA Fisheries mission responsibilities and expertise of NMFS make us a significant participant in this initiative.

For FY 1990, we are requesting a total of $103,166,000 for NOAA Fisheries to help meet the Gramm-Rudman-Hollings deficit reduction target, and to enable us to conduct the activities essential to meeting our statutory mandates. To this end, our budget request places highest priority on the information acquisition and analysis activities that are necessary to make responsible conservation and management decisions. Approximately 65% of our requested funds within OR&F are for information collection and analysis. The second major element of our budget request is focused on support for fisheries and protected species conservation and management operations and associated enforcement. Approximately 30% of our budget request is related to management operations. The remaining program element addresses seafood safety concerns.

We have continued our work on identifying alternative funding mechanisms to reduce or offset Federal fisheries conservation and management costs. Two years ago, the Administration proposed the establishment of marine fishing user fees to underwrite funding for important marine fisheries programs. Initially public reaction was negative. However, there has been a growing recognition of the need to provide a stable source of revenue to supplement funding for the Federal marine fisheries program. I believe that a significant opportunity exists to shift part of the burden of fisheries programs to those who directly benefit from them. If we can achieve this, we will be assured of adequate funds for a strong, effective fisheries program.

H.R. 5580, introduced at the request of the Administration during the last session of Congress as the "Exclusive Economic Zone Revenue Raising Act of 1988", would have generated approximately $67 million annually to offset the cost of our Federal fisheries programs. This bill set the stage for what we hope will be serious deliberations on the fishing license proposal by this Congress. Since the license proposal is similar

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in nature to user fees already in place for national forests, grazing, and mineral extraction, we believe the fishing license issue should be reviewed in the context of a user fee. There are credible arguments supporting the adoption of a fishing license as a user fee contained in H.R. 5580. What is needed now is a wide ranging debate on the details for user fee legislation that is fair to all. We plan to resubmit the proposal to Congress to set the stage for that debate and enactment of appropriate legislation. Formal submission of a request for an additional $42 million for NOAA Fisheries FY 1990 budget has been made contingent upon enactment of satisfactory user fee legislation. That $42 million contains items that are absolutely essential for workable programs that respond to the responsibilities necessary to conserve our living marine resources of the EEZ.

I will now provide an overview of our budget request for the National Marine Fisheries Service for FY 1990.

Overview of NMFS FY 1990 Budget Request:

Of the $103.2 million requested for NMFS for FY 1990, $99.4 million is for the operations, research, and facilities (OR&F) account and $3.8 million is for the various accounts supporting such things as the foreign fishing observer program and the funds providing compensation for damages to, or loss of, fishing gear.

I will focus my discussion on the OR&F proposal. The NMFS $99.4 million OR&F funding request is divided into three budget subactivities; Information Collection and Analyses, Conservation and Management Operations, and State and Industry Assistance.

Information Collection and Analyses

The first subactivity is Information Collection and Analyses. NOAA is responsible for providing scientific and technical information and related analyses under the Magnuson Fishery Conservation and Management Act, the Marine Mammal Protection Act, other Federal statutes, and international treaties. This information is the basis for management decisions that conserve, protect, and allocate the Nation's living marine resources and support the growth and stability of the U.S. fishing industry. It is used by Regional Fishery Management Councils, Interstate Marine Fisheries Commissions, State agencies, and NOAA Fisheries as a basis for establishing and implementing a variety of conservation and management measures for fishery resources and protected species. Analyses produced from this information are provided to other Federal agencies for use in assessing the effects of proposed development projects upon marine resource populations and habitats. This information is also used by public and private decision-makers to guide the development of the Nation's fishery resources.

Of the total OR&F request, $65.2 million is for Information Collection and Analyses. This funding level will support fish and protected species stock-assessment services, maintain essential catch statistics, and enable us to conduct highest priority research in recruitment fisheries oceanography (ie., NOAA's Fisheries Oceanography Coordinated Investigation Program - FOCIP), Bering Sea productivity and fisheries habitat. These program activities will provide the information needed to support informed public and private sector decisions on optimum use or protection of the Nation's living marine resources and their habitats. Our programs focus on the living marine resources for which the Federal Government has the principal conservation, management, and protection responsibility. The proposed program reductions will be taken in low priority research, stock assessment, and enhancement activities.

Conservation and Management Operations

The second subactivity is Conservation and Management Operations. Programs funded under this subactivity develop, implement and enforce domestic and international fishery and protected species management measures. Program activities include establishing Federal fishery management regimes, in cooperation with the Regional Fishery Management Councils, for the U.S. 200 mile Exclusive Economic Zone to facilitate optimum use of the Nation's fisheries resources. They also support efforts to secure the best terms possible for access to international and foreign fishery resources for the U.S. commercial and recreational fishing industries. We establish the plans and regulations necessary to protect and facilitate the recovery of populations of marine mammals and endangered species that are affected by domestic and international human activities.

We also develop impact assessments and recommendations for conserving the habitats and associated ecosystems needed to sustain the productivity of living marine resources and their populations, and enforce those regulations necessary to ensure compliance with living marine resource management regimes and seafood consumer safety.

Of our total OR&F budget request, $30.0 million is for Conservation and Management Operations. This funding level will enable us to maintain the existing high priority fisheries conservation and management efforts. We would also continue high priority on-going protected species management and habitat conservation program activities. Enforcement would be maintained at current levels. Federal support for hatchery operations and expenditures associated with fishery regulatory processes would be reduced.

Our request proposes transferring funding responsibilities for operations and maintenance of the 22 Mitchell Act hatcheries to a non-Federal source. The Administration will again be submitting a proposal to that end for Congressional consideration.

Fishery management plans have been developed and necessary implementing regulations have been issued for most of our major marine fisheries which require management. We are continuing to improve administrative procedures and recommend legislative amendments which will increase our cost effectiveness by allowing timely adjustments in fishery management measures. The maturing of this program should permit us to reduce the number of new regulations which need to be developed and implemented and thereby reduce our expenditures for fisheries management operations. We will continue our close cooperation with the States, especially those with interjurisdictional fishery stocks. However, we are looking to the States to assume a greater responsibility for supporting programs for fisheries under shared or exclusive State jurisdiction.

State and Industry Assistance

The third subactivity is State and Industry Assistance. Programs under this subactivity provide funding and support services for a variety of fisheries research and development activities. Historically, these include grants to the States to supplement fisheries catch data collection, management, and development projects for marine and anadromous fisheries within territorial waters, and various fisheries enhancement projects. Industry assistance in trade policy development, foreign market access and tariff negotiations, and export marketing to increase exports and utilization of non-traditional resources and fishery products is also provided. In addition, we provide technical assistance in addressing product quality, safety and public health impediments to the growth and stability of the U.S. fishing industry, and administer programs providing financial services to the U.S. fishing industry.

Of our total OR&F request, $4.2 million is for State and Industry Assistance. Our proposed budget would eliminate grants to States and direct financial subsidies to industry, including marketing research. These assistance programs are more appropriately the responsibility of the States and industry which are the direct recipients of the economic benefits derived from these programs. The proposed funding level will enable us to maintain the core program in product quality and safety research necessary to address high priority product safety issues and to provide technical support for the voluntary fee-for-service Department of Commerce seafood inspection program. This program is a good example of how a program can be funded by the business that benefits from the service. We are currently conducting a seafood inspection system improvements study under Congressional mandate which may lead to a mandatory, user fee supported program.

As an alternative to programs that directly assist industry, we have been encouraging the integration of fisheries development objectives into the fishery management process so that our management objectives complement the development objectives of industry. In this way, the fishery management process can become a forum to identify development opportunities as well as to fulfill Federal conservation responsibilities. Industry and Government have complementary roles in achieving the continued optimum use of the Nation's marine fisheries resources.

Industry (commercial and recreational harvesters, processors, wholesale and retail marketers, and distributors) must provide the financial investments and development strategies necessary to achieve the full social and economic benefits from these resources. If Federal/State Government conducts its living marine resource information collection, management, and services activities in a manner which does not impede or discourage industry initiatives, and which allows efficient use of fishery resources, the result will be solid, long-term growth in productivity from these resources. This, in turn, will ensure continued economic return for the domestic fishing industry and the Nation.

Additional Program Elements Proposed for Later Transmittal

A request for additional funding of $41,992,000 for National Marine Fisheries Service programs is proposed for later transmittal for Congressional consideration, contingent upon enactment of the Administration's proposed "Exclusive Economic Zone Revenue Assurance Act of 1989" legislation. The proposed legislation would implement a marine fishing user fee program to support the conservation and management of the Nation's fishery resources. When the user fee program is fully operational, the $67 million generated by the license bill would help to offset the cost of our Federal marine fisheries programs, and address several new high priority problem areas. If a fee bill were enacted, we would formally submit a $42 million contingency package for FY 1990 prior to generation of any new revenues. I would like to highlight a few of the elements which will be included in the contingency package.

-- Marine Mammal Protection Act (MMPA) Amendment Implementation. The MMPA amendments require NOAA Fisheries to establish and maintain an information management system to provide estimates on the levels of interaction of various fisheries and marine mammals; and to develop and implement an observer system which includes 20-30% observer coverage on some fishing vessels and 100% coverage aboard tuna vessels in the Pacific. The amendments also require us to establish a system for issuing exemptions to vessels that operate in a fishery that has taken marine mammals, and to conduct an education/information verification program.

-- Bering Sea Pollock Research. Heavy fishing in the international zones of the Aleutian Basin is suspected of detrimentally affecting the pollock stocks of the U.S. EEZ. This program enhancement will enable NOAA Fisheries to assess the relationship of pollock in the international zone to U.S. pollock stocks. This information is needed for the effective management of U.S. resources and to support the U.S. position in future international negotiations.

-- Information Technology 95. This element will permit NOAA Fisheries to upgrade the Agency's present information support system. A major element of NOAA Fisheries' mission is the timely dissemination of data and information products and services to Regional Fishery Management Councils, commissions, Federal and State agencies, industry, and other users. A three-year capital investment program will be proposed to replace and modernize the present system. The existing system is obsolete, unreliable, and uneconomical to operate and maintain. It is incapable of handling the constantly increasing volume of data, and is unable to provide data products and services to the users in a timely manner.

-- Catch Effort and PACFIN. A related fishery information initiative will provide base program support for the Pacific Fishery Information Network. This is a coordinated effort for the assembling of catch/effort information to support fishery management plans involving all the Pacific coast States, Regional Councils, and NOAA Fisheries.

-- MFCMA and Lacey Act Enforcement. The number of fishery laws and regulations has increased significantly over the past several years. This program will provide the additional enforcement agents and inspectors to assist in the enforcement of regulations and to encourage compliance with fisheries management goals. Enforcement is essential for maintaining a credible Federal fishery management program.

-- Marine Fishing Fee System. The contingency package also includes funding for the administration of the proposed fishing fee/license system, including positions for auditing payment records and managing the license program.

Conclusion

We now face significant new challenges in the areas of fisheries and protected species management, and habitat constituencies. We can successfully meet the significant challenges the Nation faces in the areas of fisheries management, protected species management, and habitat conservation at the $100 million funding level requested for NMFS for FY 1990.

The Department of Commerce look forward to working with you, Mr. Chairman, the other members of this Subcommittee, and Congress to achieve our national goals for our living marine resources.

If you have any questions, I will be pleased to answer them at this time or provide for the record any other information requested.

A/S F American Fisheries Society

ROBERT G. WHITE
President 1988-1989

CARL R. SULLIVAN
Executive Director

PAUL BROUHA
Deputy Director

March 14, 1989

The Honorable Walter B. Jones, Chair
U.S. House of Representatives
Merchant Marine & Fisheries
241 Cannon House Office Bldg.
Washington, DC 20515-3301

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Dear Chairman Jones:

The American Fisheries Society (AFS) appreciates the opportunity to submit these written comments concerning the proposed fiscal year 1990 budget for the National Marine Fisheries Service (NMFS). We ask that these comments be included in the official record of the hearing.

The AFS was founded in 1870 and is the world's oldest organization of fisheries scientists, having been active for 119 years in fisheries research, scientific publishing, conservation, and enhancement. The AFS is also the largest fisheries organization with over 8,500 members who are employed by public agencies at the state, federal, and international level, as well as by educational institutions and private industry.

Before we comment on the specific proposal for the NMFS FY 1990 budget, it will be helpful to briefly review some facts about the nation's living marine resources and NMFS, the federal agency assigned responsibility for their protection, conservation, management, and development.

The living marine resources occurring within the Exclusive Economic Zone of the United States include 15-20 percent of the world's traditionally harvested fishery resources. The current value of the commercial use of these resources alone is represented by annual landings worth over $3.1 billion at the dock side, with a economic contribution the nations GNP estimated at $17 billion. These living marine resources also support a recreational fishery with an annual economic value estimated at more than $13.5 billion, along with a large and growing non-consumptive sector which has placed a high social value on these resources, particularly the marine mammals. The significance of fisheries products to the nation is further indicated by the consumer demand which again experienced a significant 0.7 pounds per capita increase in 1987 to a record 15.4 pounds per capita consumption level. This growing domestic demand has resulted in a record level of imports of edible and nonedible fishery products in 1987 of $8.8 billion. Exports of U.S. fishery products amount to $1.7 billion, making the resulting $7.1 billion trade deficit in fishery products one of the most important factors in this nation's overall trade deficit. Coincident with the increasing domestic demand for seafood, is a growing public concern over the safety of the U.S. seafood supply. Questions are being raised by consumer groups and the seafood industry. Addressing these concerns will require an assessment of the production potential of the nation's fishery resources, quality of the nation's coastal waters, and pathways of contaminants into the seafood supply, and the inspection of domestic and import fishery products.

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A unique characteristic of the nation's living marine resources is their inherent renewability, where with proper management they are not depleted through use as is the case with most natural resources, but are capable of a sustained level of productivity year after year. The renewable nature of these resources means that a continuing stream of benefits to the nation can be realized through assuring the continued maximum biological productivity of these living resources and their optimum utilization by their multiple, often competing users. Achieving this productivity from living marine resources also requires protecting and conserving their habitat, which is the foundation for this resource productivity, along with controlling their rate of utilization.

For over one hundred years--even before the major regulatory and development legislation of the 1970s and 1980s became law, the federal government recognized the need to be involved in the resolution of fisheries issues and maintained a federal fisheries agency. Over the years the threats to the resources have become greater and the issues more contentious. It is incongruent that the Administration should continue to propose the federal marine fisheries programs for more than a 45% reduction at a time when the need for information and sound resource management has never been greater. This shortsighted proposal mortgages the future of our fishery resources, their environment, and those who depend on them for livelihood, protein, and recreation. It may also be setting the stage for potentially serious public health and/or economic impacts on the nation's fishing industry associated with the real or perceived problems with the nation's seafood supply. Impacts which could be avoided by an adequately funded and responsible federal fishery program. The federal fisheries program is not a superfluous expense, it is an investment in the maintenance and wise utilization of a priceless, publicly-owned renewable natural resource which can be, and indeed in some cases is being, destroyed by misuse or mismanagement.

The future of the nation's fisheries revolves around two key concepts: (1) the renewable but vulnerable nature of living marine resources which requires appropriate conservation and management to assure their continued productivity and future availability, and; (2) multiple use of these resources, which requires informed decision-making and coordinated response within all levels of government and industry. It is the responsibility of government, as the resource manager, to support research and services which provide timely and accurate resource and fishery information, including information on the distribution and abundance of the resources, harvestable surplus, the domestic and international market trends, the condition of critical habitat, and the other very basic information necessary for the conservation of fisheries resources and protected species. Based on this information, and in consultation with the industry and the public, it is the further role of government to formulate, or participate in the formulation of, fishery management plans, protected species management plans, habitat conservation programs, and fishery restoration, enhancement and development policies and programs to achieve optimum yield from the resources and economic benefits for the nation.

The central responsibility of the federal government is to ensure that the nation's living marine resources are not depleted and remain a productive natural resource for current as well as future generations. If the government conducts its living marine resource management and service activities in a manner which fosters and supports private sector initiatives, and which allows for efficient and safe utilization of fishery resources, the result should be solid long-term growth in productivity from these resources as well as economic return for the industry and the nation. Benefits include: jobs, profits, export earnings, subsistence recreation, a better nourished populace, a healthy and productive marine ecosystem, and the protection of marine mammals and threatened and endangered species.

If we expect to continue enjoying the bounty of the sea, then we must be good stewards. Indeed, we should be expanding rather than reducing our efforts to conserve and manage living marine resources. It is difficult for us to understand why this nation would fail to fund and adequately staff the one agency with the mission and expertise to properly manage this priceless renewable food and recreational resource.

The ability of the United States to meet domestic market demand from domestic wild stock production has natural limits which have been met or exceeded for most high demand species, e.g., approximately 70% of shrimp consumed in the United States are imported. We must identify alternative means of increasing domestic supplies to meet the increasing variety of user demands and to offset imports. Aquaculture is an alternative which is being developed by many foreign nations supplying the U.S. market, e.g., Ecuador and China are supplying an increasing share of the U.S. shrimp market with cultured shrimp. Congress has supported a role for NMFS in aquaculture legislation and budget restorations. However, current Executive Branch policies are inconsistent and restrict federal program effectiveness in addressing this problem.

Since NMFS was transferred in 1970 to the Department of Commerce (National Oceanic and Atmospheric Administration, NOAA) from the Department of the Interior (Fish and Wildlife Service), the Agency has never been adequately funded to carry out the increasing number of major new responsibilities delegated to it by Congress, and the Administration has repeatedly proposed its programs for reduction or elimination.

Throughout its existence, the NMFS (and its predecessor federal fishery agencies) have adjusted to the demands placed upon it. In the 1800s and early 1900s there was a need to describe the composition and distribution of the nation's fishery resources. In the 1950s and 1960s there was a need for exploratory fishing to identify new fishing grounds for traditional fisheries, to assist industry in developing nontraditional resources, and to negotiate international treaties to protect and ensure U.S. access to distant water resources. In the 1970s and 1980s the focus changed to domestic fisheries management with the need to explain why traditional stocks were decreasing and to allocate limited resources among competing users. NMFS programs currently provide a comprehensive and integrated approach to ensuring the continuing productivity of the nation's living marine resources and the economic viability of the resource-dependent industries.

To the great credit of the people of NMFS, much has been accomplished in spite of often challenging technical, political, and program funding problems. Achievements have come through exemplary efforts of the agency's professional staff and successful appeals to states and industry to assume some of the burden for supporting these federal functions. NMFS even utilized foreign fishermen to gather stock assessment data in connection with granting them fishing rights in the U.S. E.E.Z. (although this source of program support has all but disappeared as management efforts were successful in phasing out foreign fishing in U.S. waters and funds are lacking to fill this information void).

With the thought that Congress and the public need to better understand the agency's responsibilities and program needs, a summary of NMFS budgetary resources since 1970 along with a partial chronological list of major new legislative actions which have significantly increased the agency's responsibilities during that time is provided in Table 1. Many of the less burdensome acts have not been listed which also expanded existing programs, added administrative or procedural requirements, or in general increased NMFS work load. Incredibly, over this period NMFS was given (through new legislation, amendments to existing legislation, and as a result of certain court decisions) enormous work loads which should have justified significant budget increases. Instead, since 1979 the NMFS budget has continued to decrease in constant dollar value terms. Many new assignments have been thrust upon NMFS, forcing endless reorganization and suboptimization of existing programs, while cannibalizing one program after another. Considering the magnitude of the program changes, short time during which they have occurred, and the lack of management support within the Executive Branch, the accomplishments of the NMFS professional staff in meeting the mandates of Congress are an amazing success story. We urge the Committee to give special attention to Table 1 when deliberating an appropriate funding level for NMFS.

Under existing budgeting procedures, no official of the NMFS is permitted to come before the Congress and identify the fiscal resources which are truly necessary for effective and equitable management of our nation's renewable living marine resources. Every Administration must control budget requests, yet there must be communication between Congress and professional public servants on these vital resource needs. There are indications that the Administration recognizes that additional resources are needed for the NMFS programs, as evidenced by the new program elements proposed for later transmittal, which the Administration has linked to proposed fishing licence legislation.

The American Fisheries Society recommends authorization of user fees or royalties designed to recover research and management costs, including costs of administering access limitation programs; also for recovery of reasonable economic rent from users of publicly owned resources as an equitable return to the public treasury.

We believe that Congress should conduct oversight hearings to document the dollars and staffing (including scientists, other professionals, support personnel, laboratories, research vessels, equipment, and funds) necessary to adequately manage the nation's fishery resources.

The proposed NMFS budget for FY 1990, if enacted, would cut in half a program that has successfully served the nation's fisheries for over one hundred years. Throughout its existence, the NMFS fisheries program has had the resourcefulness to meet the demands placed upon it. However, it will be impossible, even for NMFS, to accomplish the intent of Congress for the conservation, management, and development of the nation's living marine resources within the budget proposed for fiscal year 1990.

The American Fisheries Society urges Congress to, at a minimum, restore the proposed reductions in the NMFS budget in order to maintain current program levels. The Congress should also give consideration to providing additional funding for the new program elements proposed for later transmittal.

BUDGET ITEMS OF GREATEST CONCERN

Information Collection and Analysis
(FY 1990 Base $103,694; Budget Request $65,177K)

This subactivity provides for the vital resource research and management information activities of NMFS. With these funds NMFS collects and analyzes a broad range of information on fishery resources, protected species, living marine resource habitat, and fishing industry activities. The Administration is seeking a $38.5 million reduction in this work. We believe this proposed reduction is totally indefensible in light of the increasing complexity of ocean use and fisheries allocation issues and the associated demands for increasing quantity and quality of information for their equitable resolution. For example, as available information decreases, fisheries managers must become more conservative in regulating allowable harvest levels to protect the stocks. With more accurate information the manager can set harvest levels closer to maximum economic yields, thus returning the government's investment in fishery research many times over.

Some specific effects of the proposed cuts with which the AFS takes issue are as follows:

The proposed reductions in resource survey activities ($2,000K) and New England stock depletion research ($650K) will further limit fishery independent information acquisition efforts already operating at a marginal level relative to current data user demands. This reduction would eliminate the resource surveys of south Atlantic reef fishes conducted for recruitment studies, ecosystem model development and related biological studies necessary for determining the need for, and developing, fisheries management strategies and regulation regimes; as well as for monitoring management regimes. It also eliminates efforts to evaluate the effectiveness of current management efforts in the Northeast.

The AFS is also concerned by a related reduction in ship support for fisheries programs proposed in the NOAA/NOS, Marine Services budget subactivity. This reduction would deactivate the Albatross IV, Oregon II, John H. Cobb, and Murre II, and would reduce days-at-sea on the Miller Freeman, Townsend Cromwell, David Starr Jordan, and Delaware II. These reductions in fisheries vessel support are not linked to proposed NMFS program reductions. The result of this proposal would be that NMFS would have to cannibalize its resource information programs (i.e., reduce the scope and frequency of resource surveys and related research) by diverting operation funds to provide for vessel charters for ship time now provided by these NOAA fishery vessels.

The proposed reduction in habitat research ($5,133K) would significantly undercut the ability of NMFS to identify, understand, and provide recommendations to appropriate regulatory agencies on the effects of pollution and other habitat alterations on the productivity of the nation's fisheries resources and their safety for human consumption. This reduction is being proposed at a time when our estuaries and near shore waters are increasingly threatened by development and pollution. Healthy estuarine environments are absolutely essential for the maintenance of our most valuable commercial fisheries. This reduction eliminates NMFS ability to conduct evaluations of the effects of pollution in Boston Harbor, New York/Raritan Bay, Delaware Bay, and Chesapeake Bay. Further, this reduction would be inconsistent with the Administration's $12 million increase request (in the NOS budget) for a NOAA Coastal Ocean Program to conduct environmental studies which would be dependent upon program capabilities and expertise being proposed for reduction in the NMFS program.

The proposed reduction of $4,344K for stock enhancement and disease research will terminate all NMFS research on the culture of non-salmon species. This includes the elimination of research on shellfish genetics and disease conducted at the Milford laboratory which supports the oyster and clam aquaculture industry. This reduction will also eliminate the turtle head-start program conducted at the Galveston laboratory which is attempting to restore populations of threatened species of sea turtles. It seems ironic that the Administration has methodically attempted to eliminate all support for research on the culture of marine species when the productivity of wild stocks will be unable to supply consumer demand, already resulting in imports supplying over half the shrimp and an increasing share of the salmon consumed in this country, much of which is produced through aquaculture. The short sighted nature of this policy is made worse by the long lead-time needed for genetic, disease, and nutrition research required for bringing marine species under culture.

The reduction in work associated with the Pacific Salmon Treaty ($4,708K) and for Alaska salmon enhancement ($3,766K) makes a mockery of the Administration's commitment to the implementation of this long-sought agreement. Full funding of the programs supporting this agreement is essential to its maintenance, to the resolution of remaining areas of contention, for rebuilding certain Pacific salmon stocks, and to complement habitat restoration activities in the Columbia River Basin.

Proposed reductions in protected species research ($1,200K) and marine mammal research ($1,506K) could also result in significant impact on the nation's fisheries. If we are to resolve the conflict between protecting endangered species and achieving full production from our most valuable fisheries, e.g., south Atlantic/Gulf of Mexico shrimp and redfish, (fisheries already under considerable economic stress) or avoid closure of significant portions of the fishing grounds we must find ways of mitigating or avoiding these interactions. The prototype Turtle Excluder Device (TED), for example, needs more testing and design refinement to be acceptable to industry and to exclude present finfish by-catch without loss of target species. Further, protected species population assessments will be needed for the continued issuance of incidental take permits necessary for the continuation of many of our traditional fisheries. Recent amendments to the Marine Mammal Protection Act make this work all the more important. The Administration has recognized the need for implementing these amendments and has requested $7.5 million for this purpose in program elements proposed for later transmittal.

The desire to have the states and industry do more of the work presently conducted by the federal fisheries programs is one of the rationales used for justifying many of the proposed reductions. However, even where the NMFS has been successful in establishing cooperative programs for meeting federal information needs, such as the Southeast Area Monitoring and Assessment Program (SEAMAP) ($942K), they are being proposed for termination. The SEAMAP is a coordinated state, university, and federal program for the collection, management, and dissemination of fishery-independent survey data in the Gulf of Mexico and south Atlantic which provides stock assessment information not available from the survey work of any partner alone.

The proposed reduction of ($1,600K) for Chesapeake Bay studies will terminate the research conducted in cooperation with the states of Maryland, Virginia, and Pennsylvania on the relationship between natural and man-induced environmental changes and the responses of fish populations in the Bay. While the states assumed greater responsibility for this program and have increased their efforts to identify and solve the Chesapeake Bay fisheries problems, many of the Bay's fishery resources range beyond the Bay and it does not make sense to eliminate participation by the federal fisheries agency.

The proposed reduction in the economics and commercial fisheries statistics program ($2,919K) targets the very type of fisheries catch and economic value data needed for developing and implementing fisheries management programs. Present program efforts in this area are already marginal, particularly as regards recreational landings. Coupled with the proposed termination of the state fisheries grant programs which also support catch data collection, these reductions will just make a bad situation worse. The irrationality of this proposal is made obvious by the Administration's requests proposed for later transmittal which not only restore this reduction but provide for an increase of $3 million for PacFIN and West Coast Catch/Effort data.

Overall the proposed reductions in NMFS research programs and the associated closing of NMFS laboratories would be devastating to the nation's marine fisheries conservation efforts. Some of these impacts are already being felt. The Oxford lab, a major center of excellence in matters of fish and shellfish disease, has been turned over to the State of Maryland and the federal program presence is being reduced. Negotiations have recently been completed for transferring management of the Galveston lab, which has been the center for federal research on shrimp and the turtle head-start program, to the Texas A & M marine science program. If accepted these proposed reductions would reduce programs at most of NMFS facilities below critical mass with the likely result that even more facility closures would be required than identified in the proposed budget.

NMFS research facilities and the scientific programs they sustain are nationally unique. They cannot be duplicated at existing state, private, or university facilities. Once these pools of talent are dispersed, restoration of these dedicated teams can be accomplished again only after years of study and work. Study and work are to be done when? by whom? with what funds? Scientific excellence doesn't just happen, it is built through long years of dedicated effort. NMFS staff achievement is constrained in every scientific area by a lack of funds and personnel. There is no staff redundancy and no back-up expertise. Under proposed circumstances, there will be no "next-generation" of trained marine fishery scientists. The proposed reductions in Information Collection and Analysis will be catastrophic, and there is no way for the states or industry to fill the void.

Conservation and Management Operations

(FY 1990 Base $45,710K; FY 1990 Budget Request $30,019K)

NMFS uses the information provided by the programs in the previous budget subactivity as a foundation for its Conservation and Management Operations.

The proposed reductions in program operations for the conservation and management of living marine resources will significantly curtail federal fishery management actions with an increased likelihood of unnecessary socioeconomic loss through unregulated exploitation with an associated risk of irreversible resource damage. Some of the impacts of the proposed reductions follow:

The budget of the Fishery Management Councils would be cut by approximately 50%, calling into question their ability to provide the Congressionally mandated forum for the fishery management process. The great strides being made by the councils in bringing the nation's fisheries resources under management would end abruptly. Additional progress, so near at hand, would not occur and regression would begin. Again the importance of this work is recognized by its restoration among those program elements proposed for later transmittal.

The habitat conservation and management programs through which NMFS intervenes on behalf of fisheries resources, are already funded at a tragically inadequate level, yet they are slated for further dramatic cuts of over 35%. The tremendous value of this program deserves much greater public support rather than the reduction proposed by the Administration. Of special importance is the fact that NMFS, under the Fish and Wildlife Coordination Act, provides a unique and vital technical service to the COE, EPA, Federal Energy Regulatory Commission, and other federal construction and regulatory agencies. Through its Habitat Conservation program, NMFS, in cooperation with the state agencies, provides the regulatory agencies with a forecast of the impact of their actions on fishery habitats and recommends measures to minimize them. Those agencies lack the expertise to conduct such resource impact analyses for themselves. NMFS is the only federal agency with the scientific expertise in living marine resources capable of providing this service. As an example, in the Southeast alone, NMFS recently helped save nearly 17,000 acres of habitat worth about $33 million in annual fisheries production. Project costs to the affected developers were reduced by about 15% through early identification of environmentally acceptable alternatives. Once again the importance of this work is recognized by its partial restoration among those program elements proposed for later transmittal. Further, NOAA has proposed a $12 million increase in the NOS budget for a Coastal Ocean Program which would be dependent upon the types of work conducted by the NMFS program proposed for reduction.

Federal support for the Columbia River Hatchery Program is also being proposed for termination on the assumption that an alternative non-federal funding source will be found. Legislation required to transfer funding responsibility has not been passed and termination of federal support before arrangements for an orderly transition are in place could result in serious/disastrous disruptions to the West-Coast salmon stocks with similar disastrous consequences for the local economies in the Northwest. Columbia River hatcheries were built as mitigation for the colossal destruction of spawning and rearing habitat for anadromous fish resources associated with federal hydroelectric and water diversion projects in the Northwest. Until alternative funding for hatchery operations and maintenance is assured, the federal government should never default on its solemn commitment to mitigate in perpetuity those enormous spawning habitat losses.

Once again AFS finds the proposed reductions in these and other Conservation and Management Operations programs to be unjustified, irresponsible, and unacceptable.

State and Industry Programs
(FY 1990 Base $18,123K; FY1990 Budget Request $4,220K)

The funding for the cooperative state and industry fisheries programs in this budget subactivity are slated for an appalling 82% reduction. The impacts of these reductions are as follows:

All grants to the states for interjurisdictional resource research and management and for the research, development, and restoration of anadromous fish (e.g., salmon, shad) will be terminated. This will result in a significant loss of state-provided catch statistics supported by these grants which can not be replaced. The federal role in supporting the collection of catch statistics by the states which provide data needed for federal fisheries management programs is legitimate, necessary, and cost effective. Many coastal resources range or migrate across state boundaries (e.g., salmon, striped bass, shad, menhaden, etc.) and there is little incentive for any one state to support research and management programs which primarily benefit users of the resource in other states. The AFS is especially concerned about the impacts of the proposed termination of the Anadromous Fish Grants and the Striped Bass Study and strongly recommend their retention.

Industry assistance programs are proposed for termination leaving the development of the nation's nontraditional fisheries to the private sector with no direct federal technical program assistance. The high cost and risk involved in fisheries development is unlikely to attract much private risk capital without some federal involvement to provide information and technical assistance.

The proposed budget will virtually eliminate Product Quality and Safety research activities related to (1) the maintenance of fish product safety for human consumption; (2) the development of product labeling and quality standards, and; (3) the assistance to industry in assuring continued and improved acceptability of U.S. fishery products in domestic and export markets. The Gloucester, Pascagoula, and Seattle technology labs which have consistently been leaders in seafood quality, safety, and technology research will be closed, leaving only a skeleton staff at the Charleston technology lab to provide analytical support for the seafood inspection activities. This proposal is being made at a time when the safety of seafood is becoming an increasing public concern.

The Saltonstall-Kennedy (S-K) fisheries development grant program is a related budget appropriation category which the Administration proposes to terminate and use the funds as a general offset against budget deficits. This matching fund grant program currently represents only a portion of the 30% of tariffs on fishery imports from which its funding is derived. This program encourages private initiatives for resolving problems in developing commercial and recreational fisheries by helping to reduce the grant recipients' financial risks while making their results available to others. The AFS recommends the maintenance of the S-K grant program at the $9 million level.

WHAT SHOULD BE IN THE NMFS BUDGET

1. The NMFS budget should be increased to strengthen resource and user-related information collection activities. This program enhancement is needed to permit informed, high quality decisions affecting resource husbandry, equitable allocation, international negotiations, and sound private sector investment decisions. This should include:

A. Maintaining resource assessment surveys and NOAA vessel support at current levels, plus enhancing these activities to permit development of a capability for monitoring pre-recruit life stages as a critical component in providing forecasts of resource abundance.

B. Increases in support for the collection of fisheries statistics (particularly from the recreational sector which represents over 50% of the harvest for some species and may be grossly under-represented in fisheries data), including federal support for state collection of fisheries data needed for federal management programs and support for shared state and federal fisheries data management and exchange systems.

C. Strengthening data analysis capabilities, expanding automation of data management and dissemination systems, and providing support for shared state and federal fisheries data management and exchange systems. This program element is approaching a critical stage as repair parts for the NMFS' aging ADP systems are no longer available and data support demands are increasing. The importance of this element is noted by its inclusion among program elements proposed for later transmittal; and the need is much greater and more urgent than indicated by this request.

2. The NMFS budget should be increased to provide support for improving fisheries management methodology. NMFS needs to develop its capability for ecosystem/ multispecies management which will require understanding stock interactions and the relationship with oceanographic conditions in order to more effectively forecast impacts of, and deal with, fishery management and development actions. This would require:

A. Funding for developing programs to acquire data necessary for defining the relationships of oceanographic events with resource recruitment and distribution. This would include the development and validation of systems models for providing resource forecasts needed for effective management and industry investment decisions.

B. Program increases to permit defining interspecies/fish stock relationships and to permit evaluation of alternative management actions and natural events.

C. Providing increases for conservation engineering to resolve gear selectivity/by-catch and gear conflict problems in managed fisheries and to develop methods for minimizing interaction with protected species.

D. Maintaining and enhancing federal support for state participation in management of interjurisdictional resources.

3. The NMFS budget should be substantially strengthened in the area of habitat research and conservation program operations as well as strengthening its legislative authority relative to recommendations concerning actions which degrade critical living marine habitat. This would involve:

A. Increasing funding for research to identify pollution impacts on fish stocks and for defining pollutant pathways into the human food supply. Increasing pressures on coastal waters, fish stocks, and consumer demand/consumption of seafood makes the issue of pollutants probably the biggest "time-bomb" which could threaten the future viability of the domestic fisheries as well as being a potential public health threat.

B. Increasing funds for regional area planning to provide coordinated and complementary state-federal positions on proposed habitat alterations. This would include identifying alternative development methods to minimize habitat impacts.

C. Increasing funding to define the relationships of habitat quality and spatial distribution with living marine resource productivity. This would include evaluating the effectiveness of mitigation and habitat enhancement alternatives.

4. The NMFS budget should also be strengthened to permit identifying potential problems and monitoring seafood product safety. Expansion of the NMFS program in this area is necessary for identifying potential hazards and the pathways of environmental and processing-introduced contaminants entering the nation's seafood supply. The NMFS program is currently supporting a voluntary (fee for service) Department of Commerce Seafood Inspection Program. NMFS is also conducting under Congressional mandate a seafood inspection system improvements study which may lead to a mandatory inspection program. An expansion of the NMFS program in this area is essential if the public is to maintain confidence in the safety of the nation's seafood supplies and enjoy the health benefits of seafood consumption.

We in the American Fisheries Society continue to be seriously concerned by the Administration's persistent efforts to cripple the federal fisheries program. This Administration has learned nothing from past arguments and has compounded our dismay this year by again seeking to dismantle the NMFS programs. We are concerned and angered by the apparent philosophy of callous disregard for the nation's living marine resources. The NMFS continues to be grossly underfunded for the magnitude and complexity of the job which it has been assigned by Congress. Rather than undermining its fisheries programs, the nation should be making sound and substantial additional investments in fisheries enhancement. The payoff from such investments will influence the nation's future. Consequently, cutting back on fisheries program funding based on a rationale of reducing the deficit will inevitably have the opposite effect. The trade deficit in fisheries products alone (not considering the economic value of the domestic industry or the costs of social conflicts involved with resource allocation and protected species issues) would seem to warrant a major federal investment in fisheries programs. In fact, the AFS believes it is time for the Congress to combine NMFS with the fisheries functions of the Department of the Interior and the aquaculture functions of the Department of Agriculture to provide a critical mass for the nation's federal fishery programs in a new federal fisheries agency.

Congress has steadfastly restored the proposed cuts in the NMFS budget in past years. We in the American Fisheries Society have great faith that Congress will once again have the wisdom to restore and enhance the NMFS budget.

Thank you for the opportunity to present our views.

Sincerely,

Paul Brouha

for Carl R. Sullivan
Executive Director

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Table 1
NMFS Fiscal Resource Profile

Fiscal Year	Year-End Employment (FTPs)	O.R.&F. Funding Level($M)	1972 Constant Value($M)	Major Legislation Adding to Workload
1970	1,994*	$ 46	$ 51	Reorganization Plan #4 National Environmental Protection Act (NEPA) Capital Construction Fund - Fishing Vessels
1971	1,945*	47	49	
1972	1,794	48	48	Marine Mammal Protection Act (MMPA) (Reg.Authority) FWCA Amendments
1973	1,710	49	46	Endangered Species Act (Reg. Authority)
1974	1,715	52	45	
1975	1,726	59	46	Atlantic Tuna Convention Act
1976	1,730	69	51	Magnuson Fishery Convention & Management Act (FCMA) (Reg. Authority)
1977	1,828	84	58	Clean Water Act
1978	1,880	97	63	OCS Lands Act Amendments
1979	1,853	118	70	Sec.7; Anadromous Fish Conservation Act
1980	1,861	129	70	Pac. NW Electric Power Planning & Conservation Act Pac. NW Salmon & Steelhead Conservation & Enhancement Act
1981	1,724	143	70	Lacey Act Amendments
1982	1,820	146	68	
1983	1,805	148	66	

Table 1 (continued)
NMFS Fiscal Resource Profile

Fiscal Year	Year-End Employment (FTPs)	O.R.&F. Funding Level($M)	1972 Constant Value($M)	Major Legislation Adding to Workload**
1984	1,838	$144	$ 62	Artic Research & Policy Act
				Atlantic Striped Bass Conservation Act
1985	1,825	151	63	U.S./Canada Salmon Treaty
1986	1,853	155	63	Fish & Seafood Promotion Act
				Interjurisdictional Fisheries Management Act
1987	1,913	166	65	Driftnet Impact Monitoring, Assessment, & Control Act
				Marine Plastic Pollution Research & Control Act
				Commercial Fishing Industry Vessel Anti-Reflagging Act
				South Pacific Tuna Treaty
1988		169	64	Ocean Dumping Ban Act
1989		168	61	MMPA Amendments
1990	Proposed	$ 99.9 (142)		(license)

* FTPs include NMFS fishery research vessel operation/support staffing; transferred to NOAA; NOS Office of Fleet Operations

** Does not include Administrative procedures and paper work reduction acts, Executive Orders, etc., which have also significantly increased Agency Work loads.

Questions Submitted by Congresswoman Claudine Schneider at the Hearing before the Subcommittee on Fisheries and Wildlife Conservation and the Environment

The following questions refer to the user fee imposed for the Fish and Wildlife Service's wildlife inspection program for imports and exports.

Question 1 - How much more money could be generated for wildlife inspection if the annual income threshold level for wildlife traders was lowered from $25,000 to $10,000? How much more if the level was lowered to $0?

Answer - The Service estimates that lowering the threshold from $25,000 to $10,000 would result in an additional 1,000 licensees at $125 each and 2,000 additional inspections at $25 each for a total of $175,000 in revenue per year.

Lowering the threshold from $25,000 to $0 will most likely add 6,000 licensees at $125 each and 10,000 additional inspections at $25 each for a total of $1 million in revenue annually.

Question 2 - Is the $125 license and $25 permit fee adequate to cover the actual inspection costs incurred by the USFWS? Is there a need to raise the cost of either the license or the permit fee? If there is a need, what would the license and fee be raised to, and how much more money would that generate?

Answer - Before the import/export user fee system was implemented in 1986, the Service conducted a study to determine and set reasonable license and inspection fees (not a separate permit fee). The Service believes these fees adequately cover the costs of inspecting shipments imported by businesses handling more than $25,000 worth of wildlife in 1 year. However, the fees collected are not intended to cover the costs of the entire wildlife inspection program. The Service does not expect the licensees to cover the costs incurred by other individuals receiving free inspection services.

Currently, the Service does not have sufficient information to support an increase in the fees related to the import/export program. However, in late Fiscal Year 1988, the Service changed its fiscal policies and procedures to permit the accurate accumulation of cost data associated with the law enforcement import/export system. The Service expects to have sufficient information during FY 1990 to evaluate the total cost of the wildlife inspection program and review the appropriateness of the $25,000 threshold as well as the license and inspection fees.

Question 3 - Will the U.S./Canada Free Trade Agreement have any effect on the wildlife inspection user fee? If so, what will be the economic ramifications?

Answer - The Service does not believe that the U.S./Canada Free Trade Agreement will have any effect on the wildlife inspection user fee.

STATE OF NEW YORK
DEPARTMENT OF
ENVIRONMENTAL CONSERVATION
ALBANY, NEW YORK 12233-1010

THOMAS C. JORLING
Commissioner

MAR 2 1989

Dear Mr. Wise:

Thank you for your recent letter on behalf of the Marine Resources Advisory Committee concerning funding for the Shinnecock Inlet stabilization project. I am well aware of the importance of the Inlet to Long Island's economy and share your concern that shoaling has created dangerous conditions for the commercial and recreational fishermen who regularly traverse the Inlet.

As you may know, funding for a project of this nature originates with the federal government (70% of project costs) through the Army Corps of Engineers Civil Works Budget, after which the non-federal share (30% of project costs) must be appropriated at the state level. President Bush did not include the project in his FY 90 budget request. However, I will be testifying before Subcommittees of both the House and Senate Appropriations Committees in April of this year on the Corps of Engineers Civil Works Budget and will speak in favor of including the Shinnecock funding as an add-on to the President's budget request. If Congress appropriates the moneys, I can then request the non-federal match from the State Legislature in the next State fiscal cycle.

Thank you for contacting me concerning this very important project.

Sincerely,

Thomas C. Jorling

cc: Congressman Hochbrueckner
Senator Moynihan
Senator D'Amato

Mr. William M. Wise
Chairperson
Marine Resources Advisory Council
State University of New York
Stony Brook, New York 11794-5000

JFK/RLK/vm
bcc: TCJ File
F. Murray
J. Goldwater
R. Torkelson
B. Catone
J. Kelley/R. Konsella
H. Pike
H. Berger

MARINE SCIENCES REASEARCH CENTER, STATE UNIVERSITY OF NEW YORK, STONY BROOK, N.Y. 11794-5000 (516) 632-8656

23 January 1989

Thomas C. Jorling, Commissioner
New York State Department of
Environmental Conservation
50 Wolf Road
Albany NY 12233-1010

Dear Commissioner Jorling:

Funds to improve navigability and ease erosion at Shinnecock Inlet were not incorporated into President Reagan's FY 1990 budget. On behalf of the Marine Resources Advisory Council, I urge you to petition President Bush to reinstate funds for this vital project or to work with New York's Congressional delegation to effect a legislative reinstatement, if necessary.

Shinnecock Inlet is a vital passageway for commercial and recreational fishermen of Long Island. Over the past several years, commercial fishery landings at Shinnecock have averaged more than 10 million pounds with a dockside value of nearly $7.5 million dollars. Fifty commercial vessels regularly use the inlet for access to fishing grounds in the Atlantic Ocean. The Inlet is equally valuable to recreational fishermen and boaters, who number in the thousands in this area. The combined impact of commercial and recreational fishery activity at Shinnecock on Long Island is very significant.

Because of shoaling, Shinnecock Inlet is highly dangerous. In recent weeks, groundings and other accidents at the Inlet have resulted in tragic loss of life and property. The work planned by the US Army Corps of Engineers for Shinnecock Inlet (channel dredging, jetty rehabilitation and extension, construction of a sand bypassing system) was authorized by Congress in **1960**. It is time to get this job done!

Further delay of this improvement may save money now, but will cost both money and lives in the long run. The $9 million earmarked for the Shinnecock Inlet project is needed to protect the very life and limb of fishermen using this important waterway. Moreover, in its recent First Annual Report to you, the Council urged the Department to do all it can to preserve current fishery access in the marine waters of New York. For both recreational and commercial fishermen in the Shinnecock area, a safe, navigable inlet is that access. Lacking access, fishing effort will relocate or perhaps disappear entirely, causing tremendous economic disruption and loss.

Please add your voice to those of fishermen, local legislators and Congressmen, concerned citizens, and the Marine Resources Advisory Council seeking to overturn this shortsighted decision and restore full funding for the much-needed federal navigation project at Shinnecock Inlet.

Sincerely,

William Wise

William M. Wise, Chairperson
Marine Resources Advisory Council

cc: Council members
R. Doig
G. Colvin
D. Solo, Concerned Fishermen's Wives of Shinnecock

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